

1 UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF OHIO  
3 EASTERN DIVISION

4 IN RE: NATIONAL ) MDL No. 2804  
5 PRESCRIPTION OPIATE )  
6 LITIGATION, ) Case No.  
7 ) 1:17-MD-2804  
8 )  
9 THIS DOCUMENT RELATES TO ) Hon. Dan A.  
10 ALL CASES ) Polster  
11 )  
12 )

13 — — —  
14 Wednesday, December 12, 2018  
15 — — —

16 HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER  
17 CONFIDENTIALITY REVIEW  
18 — — —

19 Videotaped Deposition of MIRANDA  
20 JOHNSON, held at 4206 South J.B. Hunt Drive,  
21 Rogers, Arkansas, commencing at 8:51 a.m., on  
22 the above date, before Debra A. Dibble,  
23 Certified Court Reporter, Registered  
24 Diplomate Reporter, Certified Realtime  
25 Captioner, Certified Realtime Reporter and  
Notary Public.

— — —  
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3           Commercial & Class Action  
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5       VIDEOGRAPHER:  
6           James Arndt  
              GOLKOW LITIGATION SERVICES  
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I N D E X

MIRANDA JOHNSON PAGE

DIRECT EXAMINATION BY MR. INNES 10

E X H I B I T S

No. Description Page

Walmart Johnson Exhibit 1 Walmart Inc.'s Responses to Plaintiffs' (First) Combined Discovery Requests to National Retail Pharmacies Defendants and attached documents under seven tabs to include Bates WMT\_MDL\_000011106-109 and WMT\_MDL\_000000963-971 and WMT\_MDL\_000008377-8379 and WMT\_MDL\_000004237-4239 and WMT\_MDL\_000004781-4783.

Walmart Johnson Exhibit 2 FY15 Annual Performance Evaluation (50/40/10) for Miranda Johnson. WMT\_MDL\_000055406-55410.

Walmart Johnson Exhibit 3 2014 email chain. Subj: RE: SOM ISD Request Form with native attachment. WMT\_MDL\_000048098-101-3.

Walmart Johnson Exhibit 4 10-28-14 email from Miranda Johnson to George Chapman. Subj: SOM Strategy Deck - Updated, with attached PowerPoint deck. WMT\_MDL\_000009385-9386 and attachment.

Walmart Johnson Exhibit 5 May 2017 email chain. Subj: RE: Logistics Order Routing Project. WMT\_MDL\_000041598-41599.

1	Walmart	January 2018 email chain.	255
2	Johnson	Subj: RE: Suspicious Order	
3	Exhibit 6	Monitoring.	
		WMT_MDL_000021115-21117.	
4	Walmart	12-4-14 email from Roxy	265
5	Johnson	Reed. Subj:	
6	Exhibit 7	Step_2_Threshold_Calc.xlsx.	
		WMT_MDL_000029318-29319	
		with attachment.	
7	Walmart	10-28-14 email from Kristy	276
8	Johnson	Spruell.	
9	Exhibit 8	WMT_MDL_000009819-9820,	
		with attachment.	
10	Walmart	10-5-17 email from Miranda	288
11	Johnson	Johnson to David Barlow.	
	Exhibit 9	Subj: Buzzed SOM Algorithm.	
		WMT_MDL_000005896-5910.	
12	Walmart	May 2016 email chain.	293
13	Johnson	Subj: RE: SOM Cloud Data	
14	Exhibit 10	Document - Current Version	
		ver. 1.3.	
		WMT_MDL_000004624-4626.	
15	Walmart	April 2015 email chain.	326
16	Johnson	Subj: RE: Archer.	
	Exhibit 11	WMT_MDL_000016206-16207.	
17	Walmart	4-27-15 email from Miranda	330
18	Johnson	Johnson to Tim Koch. Subj:	
19	Exhibit 12	Areas of Focus - Week 13.	
		WMT_MDL_000027961-27962.	
20	Walmart	1-11-16 email chain. Subj:	333
21	Johnson	RE: SOMP.	
22	Exhibit 13	WMT_MDL_000003862-5883.	
23	Walmart	8-10-15 email from Miranda	342
24	Johnson	Johnson to Tim Koch.	
25	Exhibit 14	WMT_MDL_000020368.	

1 Walmart February 2015 email chain. 349  
Johnson Subj: Sr. Controlled  
2 Exhibit 15 Substances Analyst - For  
Review.  
3 WMT\_MDL\_000016104-16105.

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6 REPORTER'S CERTIFICATE 368  
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7 WITNESS SIGNATURE PAGE 371  
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1 PROCEEDINGS

2 (December 12, 2018 at 8:51 a.m.)

3 VIDEOGRAPHER: We're now on the  
4 record. My name is James Arndt. I'm  
5 a videographer for Golkow Litigation  
6 Services. Today's date is  
7 December 12, 2018, and the time is  
8 8:51 a.m. This video deposition is  
9 being held in Rogers, Arkansas in the  
10 matter of the National Prescription  
11 Opiate Litigation for the  
12 United States District Court for the  
13 Northern District of Ohio, Eastern  
14 Division. The deponent is Miranda  
15 Johnson.

16 Will counsel please identify  
17 themselves?

18 MR. INNES: Good morning. This  
19 is Michael Innes of Carella Byrne for  
20 plaintiffs.

21 MR. ECKLUND: Good morning.  
22 Don Ecklund, also from Carella Byrne,  
23 on behalf of plaintiffs and the MDL.

24 MS. TABACCHI: Good morning.  
25 Tina Tabacchi from Jones Day on behalf



1 of defendant Walmart and the witness.

2 MR. ELMER: Scott Elmer also  
3 from Jones Day on behalf of Walmart.

4 MS. BECHET: Good morning.  
5 Jennifer Bechet, senior associate  
6 counsel, Walmart, Incorporated.

7 MR. VO: Good morning. Caley  
8 Vo on behalf of defendant McKesson.

9 VIDEOGRAPHER: Will counsel on  
10 the phone please identify themselves.

11 MR. HAWKINS: Will Hawkins from  
12 Williams & Connolly on behalf of  
13 Cardinal Health.

14 MR. LADD: Matthew Ladd of  
15 Morgan Lewis on behalf of defendant  
16 Rite Aid.

17 MR. WATTS: Ryan Watts from  
18 Arnold and Porter, LLC, on behalf of  
19 Endo Health Solutions Inc.; Endo  
20 Pharmaceuticals Inc.; Par  
21 Pharmaceuticals, Inc.; Par  
22 Pharmaceutical Companies, Inc.  
23 formerly known as Par Pharmaceutical  
24 Holdings, Inc.

25 MS. ROCCHINO: Samantha

1           Rocchino for Reed Smith, LLP, on  
2           behalf of AmerisourceBergen Drug  
3           Corporation.

4                   VIDEOGRAPHER: The court  
5           reporter is Debbie Dibble, and she  
6           will now swear in the witness.

7                   MIRANDA JOHNSON,  
8           having first been duly sworn, was examined  
9           and testified as follows:

10                   DIRECT EXAMINATION

11           BY MR. INNES:

12                   Q.       Good morning, Ms. Johnson. My  
13           name is Michael Innes. I'm with the law firm  
14           Carella Byrne. I represent the plaintiffs in  
15           the matter.

16                            Could you state your full name  
17           for the record?

18                   A.       Miranda Johnson.

19                   Q.       And who is your current  
20           employer?

21                   A.       Walmart.

22                   Q.       And what is your current title?

23                   A.       Director on the controlled  
24           substances compliance team.

25                   Q.       And what's your business

1 address?

2 A. 702 Southwest 8th Street in  
3 Bentonville, Arkansas.

4 Q. You understand you are under  
5 oath; is that correct?

6 A. Yes.

7 Q. And are you taking any  
8 medication that would interfere with your  
9 ability to answer my questions fully and  
10 truthfully today?

11 A. No.

12 Q. Is there any reason why you  
13 cannot answer my questions fully and  
14 truthfully today?

15 A. No.

16 Q. If I ask you a question that  
17 you don't understand -- and this is  
18 important -- please let me know.

19 If you do understand -- I'm  
20 sorry. If I ask a question you don't  
21 understand, let me know. I'll rephrase it.

22 If you answer a question, I'm  
23 going to assume that you understood the  
24 question.

25 A. Okay.

1 Q. Is that good? Is that clear?

2 A. That's clear.

3 Q. Have you ever testified in a  
4 deposition or a trial before?

5 A. No.

6 Q. What did you do, if anything,  
7 to prepare for today's deposition?

8 A. I met with counsel.

9 Q. How many times did you meet  
10 with counsel?

11 A. Yesterday, a few hours on  
12 Monday, and then a few hours before that.

13 Q. And were those meetings in  
14 person?

15 A. Yesterday was in person.

16 Q. And the others were over the  
17 phone?

18 A. Phone, mm-hmm.

19 Q. Were any of them  
20 videoconferenced, anything like that?

21 A. No.

22 Q. About how many hours do you  
23 think each session was?

24 A. Yesterday was probably about --  
25 it was the day -- a full day. The other was

1 a few hours. I can't remember exactly how  
2 many. Maybe four.

3 Q. So there was two sessions,  
4 yesterday and then a day prior?

5 A. Yesterday, with the full day,  
6 Monday for a few hours, and then there was a  
7 few hours before that.

8 Q. Okay.

9 Who was present in those  
10 meetings? You can go through each one in the  
11 sequence.

12 A. It was counsel. I'm trying to  
13 remember who all was in there.

14 Tina, Scott, Jennifer,  
15 Carl Sparks.

16 MS. TABACCHI: Do you --  
17 Do you want me to help you  
18 streamline this, Michael?

19 THE WITNESS: Sorry.

20 MS. TABACCHI: Walmart's  
21 in-house and outside counsel.

22 THE WITNESS: Yeah.

23 MR. INNES: No non-attorneys  
24 were there?

25 MS. TABACCHI: Correct.

1 THE WITNESS: Correct.

2 MR. INNES: Thank you.

3 Q. (BY MR. INNES) Did you review  
4 any testimony in this case prior to today?

5 A. No.

6 Q. Did you speak with any  
7 representative of any other defendant in the  
8 case prior to today? Regarding this case?

9 A. No.

10 Q. Did you speak with anyone else  
11 other than counsel regarding the case or your  
12 deposition today?

13 A. No.

14 Q. Have you discussed this case  
15 with anyone other than counsel at any time?

16 A. No.

17 Q. You've never had any discussion  
18 with Mr. Koch, C-O-C-H? [sic] About the  
19 case?

20 A. About the case?

21 MS. TABACCHI: Object to the  
22 form.

23 MR. INNES: Yes.

24 THE WITNESS: Not that I  
25 remember.

1 Q. (BY MR. INNES) Okay. So you  
2 graduated Louisiana Tech in 2002; is that  
3 right?

4 A. Yes.

5 Q. Did you ever meet Tech the  
6 bulldog?

7 A. I don't know if I did. I don't  
8 remember.

9 Q. Just kidding.  
10 And then, you graduated from  
11 the University of Arkansas School of Law in  
12 2006; is that right?

13 A. Yes. I graduated from law  
14 school in 2006, yes.

15 Q. And that was a three-year  
16 program?

17 A. It was.

18 Q. Okay. And did you take a bar  
19 exam after you completed your JD?

20 A. Yes.

21 Q. And where was that?

22 A. Where was the bar exam?

23 Q. What state were you in?

24 A. Oh, Arkansas.

25 Q. Arkansas. Is that the only

1 state where you sat for the bar?

2 A. Yes.

3 Q. And did you pass the bar?

4 A. Yes.

5 Q. Are you admitted to the state  
6 of Arkansas?

7 A. Yes.

8 Q. Any other states that you are  
9 admitted in?

10 A. No.

11 Q. After you graduated with your  
12 JD, you took a job at the Arkansas Department  
13 of Health and Human Services; is that right?

14 A. Yes.

15 Q. And you were in the office of  
16 chief counsel?

17 A. Yes.

18 Q. What role did you have in the  
19 office of chief counsel?

20 A. I was responsible for doing  
21 child abuse and neglect cases.

22 Q. Okay. Was there -- do you have  
23 any responsibilities as far as narcotics, for  
24 instance?

25 A. Can you --



1 MS. TABACCHI: Object to the  
2 form.

3 THE WITNESS: -- clarify?

4 MR. INNES: Sure.

5 Q. (BY MR. INNES) In your role as  
6 counsel for the department of health and  
7 human services, did you investigate  
8 pharmaceutical companies?

9 A. No.

10 Q. Did you -- were you involved in  
11 the prosecution of drug offenses?

12 A. No.

13 Q. When did you leave the office  
14 of the department of human and health  
15 services?

16 A. I believe it was in January of  
17 2007.

18 Q. And that was to come to  
19 Walmart?

20 A. Yes.

21 Q. Okay.

22 A. It might have even been later  
23 than January. It was in 2007.

24 Q. So about 2007 you left and --

25 A. And came straight to Walmart.

1 Q. How did you come to make that  
2 career change?

3 A. I interviewed for the position  
4 and accepted the position.

5 Q. And what was the first position  
6 you held at Walmart?

7 A. I was in the compliance  
8 organization.

9 Q. And what was your -- what was  
10 your general day-to-day function in that  
11 role?

12 A. I did HIPAA compliance.  
13 Billing compliance. And also did some work  
14 on licensing issues.

15 Q. What type of licensing issues?

16 A. We had opticians who, in some  
17 states, are licensed, and I helped support  
18 what they were able to do in certain states  
19 based on their licensure.

20 Q. Did you have anything to do  
21 with registration with the Drug Enforcement  
22 Agency?

23 A. No.

24 Q. You've held several positions  
25 at Walmart. And let's see if we can

1 streamline this instead of going through each  
2 one of them. I'll try and focus it.

3 What was the first role in  
4 which you had responsibility dealing with  
5 Schedule II or Schedule III drugs?

6 A. The role I'm currently in.

7 Q. So to be clear, the senior  
8 manager at compliance assessment, that -- you  
9 did no responsibilities regarding Schedule II  
10 or Schedule III drugs?

11 A. Correct. No responsibilities.

12 Q. So you first entered -- well,  
13 strike that.

14 When did you become the  
15 director of controlled substances?

16 A. It was in October of -- I  
17 believe it was 2014.

18 Q. Okay. Maybe we can -- you're  
19 aware that -- are you aware that Walmart  
20 submitted responses to interrogatories in  
21 this case?

22 A. Yes.

23 Q. Did you have a chance to review  
24 those before they were submitted?

25 A. I can't remember if I reviewed

1       them before. I don't think I did.

2               Q.       I believe on that document it  
3       says May of 2014 you took the role?

4               A.       (Witness nods.)

5               Q.       Do you think maybe it was May  
6       or do you -- was it -- is it October?

7               A.       So I helped support as a -- on  
8       a special assignment --

9               Q.       Okay.

10              A.       -- some projects starting in  
11       May, but I didn't have the role until October  
12       of 2014.

13              Q.       Okay.

14                      So prior to May of 2014, did  
15       you have any responsibilities regarding C-II  
16       or C-III?

17              A.       No.

18              Q.       So your responsibilities and  
19       interaction with C-II and C-III began day one  
20       as director of controlled substances?

21              A.       Yes.

22              Q.       Can you describe your  
23       responsibilities when you first took your  
24       current position?

25              A.       So when I first took my current

1 position, I was responsible for helping  
2 support the enhancements and improvements we  
3 were making to our order monitoring system.

4 Q. And what do you mean by "order  
5 monitoring system"?

6 A. Our system to monitor  
7 controlled substance orders.

8 Q. Okay.

9 Was that your sole function, to  
10 support the enhancements and improvements to  
11 the suspicious order monitoring system?

12 A. That was my main function. I  
13 can't remember exactly all that I was  
14 involved in, but that was my key focus when I  
15 first started.

16 Q. And the suspicious order  
17 monitoring program is directed towards C-II  
18 and C-III products at that time?

19 MS. TABACCHI: Object to the  
20 form.

21 THE WITNESS: Our order  
22 monitoring system was for controlled  
23 substances.

24 MR. INNES: Controlled  
25 substances.

1           Q.       (BY MR. INNES) Have those  
2       responsibilities -- well, strike that.

3                   Has your focus in that role  
4       changed over time?

5                   MS. TABACCHI: Object to the  
6       form.

7                   THE WITNESS: Can you clarify  
8       what you mean by "focus"?

9                   MR. INNES: Sure.

10          Q.       (BY MR. INNES) How, if at all,  
11       have your responsibilities in your -- in your  
12       role as director of controlled substances  
13       changed from day one to present?

14          A.       In many ways. Just like most  
15       roles do, they change and expand depending on  
16       what the need is.

17          Q.       Has your focus moved away from  
18       suspicious order monitoring or is that still  
19       your primary focus?

20                   MS. TABACCHI: Object to the  
21       form.

22                   THE WITNESS: We no longer  
23       distribute controlled substances as of  
24       April 2018.

25          Q.       (BY MR. INNES) And that's

1       probably one of the ground rules I skipped  
2       over. Your answers need to be audible. No  
3       nodding of the head. And we try not to talk  
4       over each other and help our colleague at the  
5       end of the table out.

6               A.       Okay.

7               Q.       I'm usually the biggest  
8       offender of talking over people, so know that  
9       from the beginning.

10                      Let's find our place here.

11                      So when did Walmart exit the  
12       distribution of the C-II/C-IIIs?

13               A.       C-IIIs was in April of 2018.  
14       And then IIIs through Vs, I believe that was  
15       complete in May of 2018.

16                      It was a transition, so ...

17               Q.       And so to be clear, Walmart no  
18       longer distributes; is that correct?

19               A.       Correct.

20               Q.       But Walmart does dispense C-IIIs  
21       and C-IIIs?

22               A.       Correct.

23               Q.       Do you have any -- is any part  
24       of your current role, since the exit from the  
25       C-II/C-III market, directed towards

1 suspicious order monitoring of those types of  
2 products?

3 MS. TABACCHI: Object to the  
4 form.

5 THE WITNESS: Can you clarify  
6 that? What you're asking?

7 MR. INNES: Sure.

8 Q. (BY MR. INNES) So Walmart no  
9 longer distributes C-IIs; correct?

10 A. Correct.

11 Q. Walmart no longer distributes  
12 C-IIIs; correct?

13 A. Correct.

14 Q. You testified earlier that the  
15 main focus when you first started in the job  
16 was on suspicious order monitoring of C-IIs  
17 and C-IIIs.

18 A. (Witness nods.)

19 Q. When Walmart exited that  
20 market, did those responsibilities dissolve?

21 A. Yes.

22 Q. In your capacity, do you look  
23 or -- I'm sorry, do you monitor the  
24 suspicious order monitoring programs of the  
25 companies from which Walmart purchases C-IIs



1       and C-IIIs?

2                   MS. TABACCHI: Object to the  
3                   form.

4                   THE WITNESS: Can you clarify  
5                   what you mean by that?

6                   Q.       (BY MR. INNES) Sure. I'll  
7                   give you an example.

8                   A.       Okay.

9                   Q.       Hypothetically Walmart  
10                  purchases C-IIs and C-IIIs from, say,  
11                  McKesson. In any part of your role currently  
12                  do you review McKesson's suspicious order  
13                  monitoring programs?

14                  MS. TABACCHI: Object to the  
15                  form.

16                  THE WITNESS: I'm not sure I  
17                  understand what you mean by "review."  
18                  We do have interactions with our  
19                  distributors where they provide us  
20                  information about orders they see from  
21                  our pharmacies.

22                  Q.       (BY MR. INNES) And what kind  
23                  of information are you receiving in that  
24                  context?

25                  A.       They will contact us and ask us

1 questions.

2 Q. And who exactly are they  
3 contacting at Walmart?

4 A. Oftentimes me.

5 Q. And if someone were to contact  
6 you -- well, strike that.

7 Has anyone contacted you about  
8 Walmart's ordering processes?

9 MS. TABACCHI: Object to the  
10 form.

11 THE WITNESS: I have had our  
12 distributors contact me about a  
13 specific order for a premise-specific  
14 location.

15 Q. (BY MR. INNES) Do you recall  
16 what that specific order was?

17 A. No. I don't.

18 Q. Do you recall a specific  
19 location?

20 A. No, I don't.

21 Q. Would there be a way for you to  
22 determine what that specific order was?

23 MS. TABACCHI: Object to the  
24 form.

25 THE WITNESS: Maybe. I'm not

1           sure.

2           Q.       (BY MR. INNES) Do you keep  
3 records of your communications with --  
4 regarding those types of conversations?

5           A.       I probably have an email or I  
6 might have an email.

7           Q.       Is there a formal process at  
8 Walmart whereby you're required to record  
9 such conversations?

10                   MS. TABACCHI: Object to the  
11 form.

12                   THE WITNESS: If it was a phone  
13 conversation, no. If it was an email,  
14 I do retain my emails.

15           Q.       (BY MR. INNES) Okay. But  
16 there's no policy whereby you would draft a  
17 memo, for instance, about that phone  
18 conversation and save it?

19           A.       Not that I'm aware of.

20           Q.       So when you first entered the  
21 role as controlled substances director, you  
22 were aware that Walmart was registered with  
23 the DEA, Drug Enforcement Administration, to  
24 distribute controlled substances?

25           A.       Yes.

1           Q.       And as a registrant, the DEA  
2       regulations require Walmart to report all  
3       suspicious orders of controlled substances?

4           A.       That is my --

5                   MS. TABACCHI: Object to the  
6       form.

7                   THE WITNESS: That's my  
8       understanding.

9           Q.       (BY MR. INNES) And again, when  
10      you first started in your role, those -- were  
11      you aware those regulations stated that a  
12      registrant was required to design, operate a  
13      system to disclose suspicious orders of  
14      controlled substances and shall inform the  
15      field division office of the administration  
16      in that area of suspicious orders when  
17      discovered by Walmart?

18                  MS. TABACCHI: Object to the  
19      form.

20                  THE WITNESS: Can you repeat  
21      that question?

22                  MR. INNES: Sure.

23           Q.       (BY MR. INNES) At the time  
24      when you entered the role as a controlled  
25      substance director, were you aware that

1 Walmart, as a registrant, was required to  
2 design, operate a system to disclose  
3 suspicious orders of controlled substances?

4 MS. TABACCHI: Same objection.

5 THE WITNESS: Yes, I believe  
6 that was my understanding.

7 Q. (BY MR. INNES) And that also  
8 at that time that the registrant had a duty  
9 to inform the field office in the relevant  
10 area of suspicious orders when discovered by  
11 Walmart?

12 MS. TABACCHI: Object to the  
13 form.

14 THE WITNESS: Yes, I believe  
15 that was my understanding.

16 Q. (BY MR. INNES) And at the time  
17 was it your understanding that suspicious  
18 orders would include orders of unusual size?

19 MS. TABACCHI: Object to the  
20 form.

21 THE WITNESS: My understanding  
22 is that it could include orders of  
23 unusual size.

24 Q. (BY MR. INNES) Do you agree  
25 with this statement: Suspicious orders

1 include orders of unusual size or as  
2 deviating substantially from the normal  
3 pattern and orders of unusual frequency?

4 MS. TABACCHI: Object to the  
5 form.

6 THE WITNESS: My understanding  
7 is that it could include those.

8 Q. (BY MR. INNES) And was it your  
9 understanding at that time that Walmart had a  
10 duty to maintain effective controls against  
11 diversion?

12 MS. TABACCHI: Object to the  
13 form.

14 THE WITNESS: That was my  
15 understanding.

16 Q. (BY MR. INNES) And what at  
17 that time was your understanding of the word  
18 "diversion"?

19 A. Diversion was focused on theft.

20 Q. Theft from?

21 A. Theft from internal employees,  
22 typically.

23 Q. So at the time when you became  
24 the director of controlled substances, was it  
25 your understanding that Walmart had a duty to

1 maintain effective controls only against the  
2 theft of Schedule II/Schedule IIIs via  
3 employees?

4 MS. TABACCHI: Object to the  
5 form.

6 THE WITNESS: That wasn't  
7 something that I was responsible for,  
8 but my understanding was that we were  
9 expected to have controls to guard  
10 against theft of controlled  
11 substances.

12 Q. (BY MR. INNES) Did you -- were  
13 you required to have controls to protect  
14 against anything else?

15 MS. TABACCHI: Object to the  
16 form.

17 MR. INNES: As it relates to  
18 diversion?

19 MS. TABACCHI: Same objection.

20 THE WITNESS: I don't remember  
21 what I was aware of at the time.

22 Q. (BY MR. INNES) At any time  
23 during your role as director of controlled  
24 substances did your understanding of the --  
25 of diversion change?

1 MS. TABACCHI: Object to the  
2 form.

3 THE WITNESS: So diversion  
4 typically means theft, when we use it.

5 I have heard it also used to  
6 just talk generally about controlled  
7 substances being used for a  
8 non-medical purpose.

9 Q. (BY MR. INNES) When you say  
10 "we," who are you referring to there?

11 A. In Walmart. And honestly, in  
12 conversations I've had with the DEA.

13 Q. In any of those conversations  
14 with the DEA, was the non-medical purpose  
15 part of the definition of diversion?

16 MS. TABACCHI: Object to the  
17 form.

18 THE WITNESS: I don't remember,  
19 but I do remember the specific focus  
20 being on theft or a filing of a 106.

21 Q. (BY MR. INNES) Was it your  
22 understanding that to maintain effective  
23 controls against diversion, Walmart needed to  
24 exercise due care in confirming the  
25 legitimacy of all orders prior to filling



1       them?

2                               MS. TABACCHI:   Object to the  
3                               form.

4                               THE WITNESS:   Can you rephrase  
5                               that?

6                               MR. INNES:    Sure.

7                               THE WITNESS:   Or clarify that  
8                               one?

9                               MR. INNES:    Sure.

10               Q.       (BY MR. INNES)   Was it your  
11       understanding that to guard against  
12       diversion, Walmart had a duty to confirm the  
13       legitimacy of an order prior to filling it?

14                               MS. TABACCHI:   Object to the  
15                               form.

16                               THE WITNESS:   My understanding  
17       was that we had to monitor for  
18       potentially suspicious orders, and  
19       then suspicious orders needed to be  
20       reported to the DEA.

21               Q.       (BY MR. INNES)   For instance,  
22       if an order came in that was suspicious --  
23       well, strike that.

24                               Did Walmart have to determine  
25       if an order was legitimate before it shipped?

1 MS. TABACCHI: Object to the  
2 form.

3 THE WITNESS: We had to  
4 determine if it was suspicious, and  
5 then, like I said, report that to the  
6 DEA.

7 Q. (BY MR. INNES) Could Walmart  
8 ship a suspicious order?

9 MS. TABACCHI: Object to the  
10 form.

11 THE WITNESS: Based on my  
12 understanding, we did not ship  
13 suspicious orders.

14 Q. (BY MR. INNES) Did Walmart at  
15 any time ship orders that were under  
16 investigation by Walmart?

17 MS. TABACCHI: Object to the  
18 form.

19 THE WITNESS: Not that I'm  
20 aware of.

21 Q. (BY MR. INNES) Were you aware  
22 that Walmart was required to file reports of  
23 distributions of controlled substances to the  
24 DEA ARCOS unit?

25 MS. TABACCHI: Object to the

1 form.

2 THE WITNESS: Yes.

3 Q. (BY MR. INNES) And are you  
4 aware that the failure to report them in a  
5 timely manner could be grounds for revocation  
6 of the registration?

7 MS. TABACCHI: Object to the  
8 form.

9 THE WITNESS: I don't know if I  
10 knew that much detail.

11 Q. (BY MR. INNES) And I  
12 apologize. I may have asked you this before.  
13 I'll be told if I did.

14 The -- as a registrant, Walmart  
15 was required to design and operate a system  
16 to disclose suspicious orders of controlled  
17 substances?

18 MS. TABACCHI: Object to the  
19 form, asked and answered.

20 THE WITNESS: Can you repeat  
21 what the question was?

22 Q. (BY MR. INNES) Sure.

23 As a registrant, Walmart was  
24 required to design and operate a system to  
25 disclose suspicious orders of controlled

1 substances?

2 MS. TABACCHI: Same objections.

3 THE WITNESS: Are you asking if

4 I agree with that or if I knew that?

5 Q. (BY MR. INNES) If you knew

6 that. Sorry.

7 A. That was my understanding.

8 Q. And is it your understanding

9 that your -- that Walmart was required to

10 inform the local DEA, division of suspicious

11 orders when they were discovered by the

12 registrant?

13 MS. TABACCHI: Object to the

14 form.

15 THE WITNESS: That was my

16 understanding.

17 Q. (BY MR. INNES) And is it your

18 understanding that Walmart could not rely on

19 a rigid formula to decide whether an order is

20 suspicious?

21 MS. TABACCHI: Object to the

22 form.

23 THE WITNESS: I don't know that

24 I had ever heard that language used.

25 Q. (BY MR. INNES) You'd never

1       heard the term "rigid formula"?

2                   MS. TABACCHI:   Same objection.

3                   THE WITNESS:   I'm sure I've  
4       heard the term "rigid formula" but not  
5       in this context.

6           Q.       (BY MR. INNES)   You've not  
7       heard the term "rigid formula" in the context  
8       of the DEA regulations as they applied to  
9       Schedule II and Schedule IIIs?

10          A.       Correct.   Not that I recall.

11          Q.       Earlier we talked about  
12       specific conversations that you had -- strike  
13       that.

14                   Are you aware of any specific  
15       thefts of C-IIIs or C-IIIs?

16                   MS. TABACCHI:   Object to the  
17       form.

18                   THE WITNESS:   Not any specific  
19       thefts.   That's not an area that I'm  
20       responsible for.

21          Q.       (BY MR. INNES)   Okay.   So  
22       earlier you testified that diversion could  
23       encompass the theft of a C-II or C-III; is  
24       that right?

25          A.       Yes, it could encompass the

1 theft of a controlled substance.

2 Q. Okay. As part of your role as  
3 a director of controlled substances, was it  
4 your responsibility to ensure that Walmart  
5 was complying with DEA regulations?

6 MS. TABACCHI: Object to the  
7 form.

8 THE WITNESS: Certain portions  
9 of DEA regulations.

10 Q. (BY MR. INNES) To protect --  
11 was protecting against a diversion of C-IIs  
12 or C-IIIs part of that responsibility?

13 MS. TABACCHI: Object to the  
14 form.

15 THE WITNESS: Protecting  
16 against theft was not part of my  
17 responsibilities.

18 Q. (BY MR. INNES) Who was in  
19 charge of protecting against theft of C-IIs  
20 and C-IIIs?

21 MS. TABACCHI: Object to the  
22 form.

23 THE WITNESS: I don't know  
24 exactly who was in charge. We have  
25 areas of the company that were

1           involved in having policies and  
2           procedures and monitoring for theft.

3                   MR. INNES:   Okay.

4           Q.       (BY MR. INNES)   So I'm -- and  
5           I'm sort of dancing around.   I'm just  
6           trying -- really just trying to figure out  
7           sort of the metes and bounds of your  
8           responsibilities as they relate to C-IIs and  
9           C-IIIs.

10                   As a director of controlled  
11           substances, your primary focus, you testified  
12           earlier, was on suspicious order monitoring.

13           A.       Correct.

14           Q.       So that would be unusual size,  
15           unusual frequency, deviating from a standard  
16           patent.

17           A.       It was our order monitoring  
18           program, yes.

19           Q.       Order monitoring.  
20                   And it would -- your  
21           responsibilities would stop there?

22                   MS. TABACCHI:   Object to the  
23           form.

24                   THE WITNESS:   There were some  
25           other things that I was responsible

1           for or would be involved in, but theft  
2           of controlled substances was not one  
3           that I would typically be involved in.

4           Q.       (BY MR. INNES) And theft and  
5           diversion are synonyms in your -- in  
6           Walmart's mind?

7                   MS. TABACCHI: Object to the  
8           form.

9                   THE WITNESS: I can't answer as  
10          Walmart, but ...

11                  MR. INNES: That was a horrible  
12          question. That was a horrible  
13          question. I'll rephrase.

14          Q.       (BY MR. INNES) So -- actually,  
15          I'll just move on from that one. We'll come  
16          back to that.

17                  I'm going to mark this as  
18          plaintiffs' Exhibit 1.

19                  It is a composite exhibit.  
20          Several documents here.

21          A.       Okay.

22                  (Walmart-Johnson Deposition  
23          Exhibit 1 was marked for  
24          identification.)

25          Q.       (BY MR. INNES) Take your time



1       and review the document. When you're done,  
2       let me know and we'll start some questions.

3                   MR. INNES: And I apologize.

4                   We have four copies of every one other  
5       than the first exhibit.

6                   MS. TABACCHI: We will work it  
7       out.

8                   MR. INNES: I know that we're  
9       trying to move this along, so I have  
10      sort of shifted a little bit. I can  
11      maybe -- and you're poring over it. I  
12      can direct you to specific documents  
13      and specific lines in the documents if  
14      that's what you want to do. I know  
15      it's a pretty large document. We  
16      might be here for a pretty long time  
17      if you need to review it word for  
18      word, but again, it's entirely up to  
19      you.

20                  MS. TABACCHI: If you want to  
21      direct the witness to a particular  
22      tab.

23                  MR. INNES: Sure.

24                  MS. TABACCHI: And she may not  
25      have reviewed that document, if you

1           want to ask her about that document.

2           MR. INNES:   Sure.

3           Q.       (BY MR. INNES)   So this -- have  
4   you seen this document before?

5           MS. TABACCHI:   Object to the  
6   form.

7           MR. INNES:   I'm sorry.

8           THE WITNESS:   Can you ask me  
9   again.

10          Q.       (BY MR. INNES) Have you seen  
11   the tab 1 before?

12          A.       I'm not sure if I've seen this  
13   exact document.

14          Q.       I'll represent to you that  
15   plaintiffs' Exhibit 1 is Walmart's responses  
16   to plaintiffs' first set of combined  
17   discovery requests to national retail  
18   pharmacy defendants.

19                 In this document, Walmart  
20   referenced, are on -- references on page 2 of  
21   tab -- sorry, page 3 of tab 1, there's a  
22   small chart.

23                 These are the policies and  
24   procedures that Walmart has identified.

25                 Tabs -- the remaining tabs that

1       you have in front of you are these documents.

2                       So I would first like to turn  
3       to tab 2, which, according to the chart, is  
4       the policy in place between November 2010 and  
5       December -- I'm sorry, and December of 2014.

6                       Was this plan in place during  
7       your --

8                       MS. TABACCHI: I'm sorry,  
9       object to the form.

10               Q.       (BY MR. INNES) Was this plan  
11       in place during your time as director of  
12       controlled substances?

13                       MS. TABACCHI: Object to the  
14       form.

15                       THE WITNESS: Can I have a  
16       minute to review it?

17                       MR. INNES: Sure.

18                       MS. TABACCHI: You're asking  
19       about the policy behind tab 2,  
20       Michael?

21                       MR. INNES: That's right.

22                       MS. TABACCHI: You just were  
23       asking her about a plan.

24                       MR. INNES: Oh, I'm sorry.

25                       THE WITNESS: It may have been.

1 I'm not very familiar with that  
2 specific policy.

3 Q. (BY MR. INNES) Let's go -- I'm  
4 just going to ask you some questions. So is  
5 it your testimony that you haven't seen this  
6 document before?

7 MS. TABACCHI: Object to the  
8 form.

9 Would you mind identifying  
10 the --

11 MR. INNES: You haven't seen  
12 plaintiffs' Exhibit 1, tab 2, which is  
13 Bates stamped ending in 11106?

14 THE WITNESS: I may have.

15 MR. INNES: You may.

16 THE WITNESS: (Witness nods.)

17 Q. (BY MR. INNES) I'm going to  
18 direct your attention to about a third of the  
19 way down the page, "Pharmacy asset protection  
20 AP managers"?

21 Do you see that line?

22 Under that it says, "By the  
23 fifth day of each month, the pharmacy AP  
24 manager retrieves the SD 405-1 and SD 405-2  
25 from document direct."

1 Do you see that line?

2 A. Yes.

3 Q. Okay. What is the SD 405-1?

4 If you know.

5 MS. TABACCHI: Object to the

6 form.

7 THE WITNESS: I don't know.

8 Q. (BY MR. INNES) Okay.

9 Do you know what the SD 405-2

10 refers to?

11 A. I don't.

12 MS. TABACCHI: Same objection.

13 Q. (BY MR. INNES) And do you know

14 what "document direct" refers to?

15 A. I do not.

16 Q. Do you know what -- well,

17 strike that.

18 The purpose of this document  
19 reads "To provide guidelines for monitoring  
20 controlled substance purchases at the  
21 pharmacy distribution center"; is that  
22 correct?

23 A. That's what the document says.

24 Q. Are you aware of any other  
25 policy that was in effect between

1 November 2010 and December of 2014 that held  
2 that same purpose?

3 MS. TABACCHI: Object to the  
4 form.

5 Michael, just note that you've  
6 misread the dates. It's actually  
7 October of 2014.

8 MR. INNES: Oh, I'm sorry.

9 Q. (BY MR. INNES) November 2010  
10 through October of 2014.

11 MR. INNES: Thank you for that.

12 THE WITNESS: Can you repeat  
13 the question?

14 Q. (BY MR. INNES) Sure.

15 A. Sorry.

16 Q. Are you aware of any other  
17 policy, Walmart policy, directed as providing  
18 guidelines for monitoring controlled  
19 substances -- substance purchases at the  
20 pharmacy distribution centers in place  
21 between November 2010 and October 2014?

22 MS. TABACCHI: Object to the  
23 form.

24 THE WITNESS: Not that I'm  
25 aware of.

1 Q. (BY MR. INNES) Can I ask you  
2 to turn to tab 7? Tab 7 to plaintiffs'  
3 Exhibit 1 is -- ends in Bates No. 8377.

4 [Document review.]

5 A. Okay.

6 Q. Okay. Thank you.

7 According to Walmart's response  
8 to interrogatory, this was the plan that was  
9 in place -- I'm sorry, this was the policy  
10 that was in place between August of 2014 and  
11 January of 2015. Is that your understanding?

12 MS. TABACCHI: Object to the  
13 form.

14 THE WITNESS: So this was a  
15 proposed process as part of our  
16 enhanced program that we were working  
17 on.

18 I don't remember the exact  
19 dates that this went in place.

20 Q. (BY MR. INNES) So is it your  
21 testimony that this is not a policy, but  
22 rather a proposal?

23 MS. TABACCHI: Object to the  
24 form.

25 THE WITNESS: It became a --

1           what we'd call like a process  
2           document. But I don't know if it was  
3           in effect in August of 2014.

4           Q.       (BY MR. INNES) Okay.

5           A.       That sounds early to me, but it  
6           may have been.

7           Q.       When do you think it was in  
8           place?

9                   MS. TABACCHI: Object to the  
10          form.

11                  THE WITNESS: I think it may  
12          have been a few months later, but I'm  
13          not positive.

14          Q.       (BY MR. INNES) In the calendar  
15          year 2014?

16          A.       I believe so.

17          Q.       So the purpose of this policy,  
18          or process document, as you referred to it,  
19          was -- states, "DEA regulations require  
20          distributors of controlled substances to have  
21          a system in place designed to identify  
22          suspicious orders of controlled substances.  
23          This guidance document will outline the role  
24          and practice -- of Practice Compliance in  
25          evaluating orders of interest and reporting



1 suspicious orders to the appropriate federal  
2 and state agencies."

3 Is that your understanding of  
4 what the purpose of this document is?

5 A. Yes.

6 Q. How, at that time -- well,  
7 strike that.

8 There's a definition section  
9 below. One that reads "Order of interest."  
10 "An order that warrants follow-up evaluation  
11 to determine whether it is suspicious."

12 How, at that time, in and  
13 around end of 2014 to January of '15, did  
14 Walmart identify orders of interest?

15 MS. TABACCHI: Object to the  
16 form.

17 THE WITNESS: I believe that  
18 there were thresholds in place in  
19 Reddwerks that identified orders that  
20 may be orders of interest.

21 Q. (BY MR. INNES) And just to be  
22 clear, my question is directed at C-IIs and  
23 C-IIIs at this point. Does that change your  
24 answer at all?

25 A. I don't believe so.

1           Q.       So the Reddwerks system, what  
2       is that exactly?

3           A.       Reddwerks is an order  
4       fulfillment system for the pharmacy  
5       distribution centers.

6           Q.       And what is an order  
7       fulfillment system?

8           A.       I don't work in a distribution  
9       center, so I will do my best to explain. But  
10      basically a system that's used to process  
11      orders and let the DC know what the order is  
12      so they can pick the order and ship the  
13      order.

14          Q.       So its primary function is not  
15      that of suspicious order monitoring?

16                 MS. TABACCHI: Object to the  
17      form.

18                 THE WITNESS: There was a  
19      suspicious order monitoring component  
20      to Reddwerks.

21                 MR. INNES: Okay. Thank you  
22      for that.

23          Q.       (BY MR. INNES) And that -- you  
24      also referenced that -- thresholds? What do  
25      you mean by "thresholds"?

1           A.       There were quantity amounts set  
2       in Reddwerks. Orders over that would flag,  
3       based on my understanding.

4           Q.       Would flag?

5           A.       Stop. Flag. Pinned. There's  
6       various terms for it, but ...

7           Q.       Would a flag -- in your mind, a  
8       "flag" is -- is that another word for order  
9       of interest?

10                   MS. TABACCHI: Object to the  
11       form.

12                   THE WITNESS: I don't know how  
13       "order of interest" was defined before  
14       changes that we made to Reddwerks.  
15       After we made enhancements to  
16       Reddwerks, we did define any order  
17       that flagged as an order of interest.

18           Q.       (BY MR. INNES) Okay. So I  
19       just want to circle back, then. So I believe  
20       we've established this is -- we have  
21       established this is the policy or process  
22       document in place at the end of 2014 into the  
23       beginning of 2015.

24           A.       I believe that was the  
25       timeframe.

1 Q. Okay.

2 A. I'm not positive.

3 Q. And --

4 MS. TABACCHI: I'm so sorry. I  
5 have a problem with my throat. That  
6 wasn't a signal.

7 Q. (BY MR. INNES) So --

8 MS. TABACCHI: But do you mind  
9 just asking your question so we can  
10 start over with this question.

11 MR. INNES: I'm going to try  
12 and figure out what my question was.  
13 I don't think we have one pending.

14 Q. (BY MR. INNES) The -- so at  
15 this time, Reddwerks -- strike that.

16 At this time Walmart relied on  
17 Reddwerks to identify orders of interest?

18 MS. TABACCHI: Object to the  
19 form.

20 THE WITNESS: At what time?

21 Q. (BY MR. INNES) So the time  
22 period that you believe this policy was in  
23 place.

24 MS. TABACCHI: Object to the  
25 form. Mischaracterizes the witness's

1 testimony.

2 THE WITNESS: I -- I think I  
3 mentioned earlier, as -- I don't  
4 remember the exact timeframe of this.  
5 The -- there was a version of  
6 Reddwerks that was in place that I --  
7 when I started in the role. I don't  
8 know how orders of interest were  
9 identified in that way. I don't know  
10 if everything that hit a threshold was  
11 an order of interest. I don't know  
12 how that definition was applied prior  
13 to being in role. My focus was the  
14 enhancement, and once the enhancement  
15 was put in place, all orders that  
16 pended were considered an order of  
17 interest.

18 Q. (BY MR. INNES) So when you  
19 first took the role as director of controlled  
20 substances, how -- what's your understanding  
21 of how an order of interest was identified?

22 A. I knew that there were  
23 thresholds in Reddwerks. I don't know how an  
24 order of interest was determined.

25 Q. How do you -- I'm slightly

1       confused by this. So how -- and I don't  
2       think it's you that's the problem.

3                       So he -- a threshold --  
4       Reddwerks uses thresholds to identify orders  
5       of interest; is that a fair statement?

6                       MS. TABACCHI: Object to the  
7       form.

8                       THE WITNESS: Reddwerks, before  
9       I started --

10       Q.       (BY MR. INNES) Again, I --

11       A.       Yeah. Sorry.

12       Q.       Yeah, I'm sorry. And I think  
13       that's important that we're always talking  
14       about the same time period. So if that's not  
15       clear, please let me know.

16       A.       Okay.

17       Q.       Before you started, how was an  
18       order of interest identified by Walmart?

19       A.       I don't --

20                       MS. TABACCHI: Objection, lack  
21       of foundation.

22                       THE WITNESS: -- know. I don't  
23       know.

24       Q.       (BY MR. INNES) Did Walmart  
25       identify orders of interest prior to your

1 taking the role as director of controlled  
2 substances?

3 MS. TABACCHI: Object to the  
4 form, lack of foundation.

5 THE WITNESS: I don't know.

6 Q. (BY MR. INNES) Can I ask you  
7 to turn to tab -- just a second.

8 Could you turn to tab 3?

9 That's Bates number -- begins  
10 on Bates number 11107.

11 And according to Walmart, this  
12 is a plan in place, a policy in place between  
13 October of 2014 and March of 2015.

14 MS. TABACCHI: Object to the  
15 form.

16 Q. (BY MR. INNES) And my basic  
17 question is if you agree with that statement.

18 A. Can you restate that question?  
19 The timeframe?

20 Q. Sure. Mm-hmm.

21 As part of your  
22 responsibilities as director of controlled  
23 substances, what responsibilities, if any,  
24 did you have with the pharmacy manual?

25 MS. TABACCHI: Object to the

1 form.

2 THE WITNESS: The pharmacy  
3 manual? Or this policy?

4 Q. (BY MR. INNES) That's a good  
5 clarification.

6 So this policy, which I'm  
7 referring to, is the pharmacy manual.  
8 Perhaps Walmart doesn't refer to it that way.

9 What responsibilities, if any,  
10 did you have with respect to tab 3, which is  
11 Walmart 11107?

12 A. So this policy would have been  
13 owned by the logistics compliance team. I'm  
14 sure that I had an opportunity to review it.

15 Q. Does this document work  
16 together with any other documents in  
17 Walmart's policies?

18 MS. TABACCHI: Object to the  
19 form.

20 THE WITNESS: I'm not sure I  
21 understand.

22 Can you restate that question?

23 MR. INNES: Sure.

24 Q. (BY MR. INNES) Let's do this.  
25 I'm going to do it slightly different.



1           A.       Okay.

2           Q.       I'm going to ask you to turn  
3       back to tab 7.

4           A.       Okay.

5           Q.       And on tab 7, which is --  
6       begins 8377, in the middle of the page  
7       there's a procedure section.

8                   Do you see that?

9           A.       Yes.

10          Q.       And then there's the initial  
11       evaluation right below that?

12          A.       Yes.

13          Q.       And the third line down refers  
14       to "Pharmacy manual, XX-XXX (logistics)."

15                   My question is, is that  
16       referring to the document identified in  
17       tab 3, which is -- ends in Bates No. 11107?

18                   MS. TABACCHI: Object to the  
19       form.

20                   THE WITNESS: I believe so.

21                   MR. INNES: Okay.

22          Q.       (BY MR. INNES) And here on  
23       Document 11107, again, tab 3, the definition  
24       section was Order of Interest. As an order  
25       that warrants follow-up evaluation or

1 evaluation to determine whether it is  
2 suspicious.

3 Is that your understanding of  
4 what an order of interest was between  
5 October 14th and -- October of 2014 and March  
6 of 2015?

7 A. Yes.

8 Q. Same question for suspicious  
9 order definition. Is that a -- is that your  
10 understanding of what a suspicious order was  
11 at the time?

12 MS. TABACCHI: Object to the  
13 form.

14 What document are you referring  
15 to?

16 MR. INNES: We're still on  
17 Document 11107.

18 THE WITNESS: Yes, that was my  
19 understanding.

20 MR. INNES: Okay.

21 Q. (BY MR. INNES) And is that --  
22 I'll just continue down the page. It says  
23 "Appropriate order." Is that an accurate  
24 definition at the time?

25 MS. TABACCHI: Object to the

1 form.

2 THE WITNESS: Yes, that was my  
3 understanding.

4 Q. (BY MR. INNES) Can an  
5 appropriate order -- is an appropriate order  
6 always considered an order of interest?

7 MS. TABACCHI: Object to the  
8 form.

9 THE WITNESS: Can you restate  
10 that question?

11 MR. INNES: Sure.

12 Q. (BY MR. INNES) Is it -- if an  
13 order is placed and shipped, and it hasn't  
14 been identified as an order of interest, is  
15 that an appropriate order?

16 MS. TABACCHI: Object to the  
17 form.

18 THE WITNESS: Not as defined  
19 here, but it doesn't mean it's not an  
20 appropriate order and just a general  
21 definition of "appropriate."

22 Q. (BY MR. INNES) I'm going to  
23 take you back to tab -- the beginning of  
24 tab 3. It's 11107.

25 Evaluating an order of

1 interest.

2 The second line in that  
3 paragraph, first full sentence says, "All  
4 reported orders of interest will be  
5 evaluated."

6 Are there orders of interest  
7 that are unreported?

8 MS. TABACCHI: Object to the  
9 form.

10 THE WITNESS: I don't know what  
11 was meant by "reported" in this  
12 sentence. So I don't know how an  
13 order of interest could be reported or  
14 unreported, because I don't know what  
15 that means in that sentence.

16 Q. (BY MR. INNES) I want to turn  
17 to page 3 of that same document. It ends in  
18 11109. It's the last page of tab 3.

19 It discusses -- the middle of  
20 the page says Role of Director of Controlled  
21 Substances.

22 Were you the director of  
23 controlled substances between -- strike that.

24 You were the director of  
25 controlled substances between October 2014

1       and March 2015; is that right?

2               A.       Yes.

3               Q.       And what were your  
4       responsibilities vis-à-vis this policy,  
5       during that time period?

6               MS. TABACCHI: Object to the  
7       form.

8               THE WITNESS: I was responsible  
9       for reports of suspicious orders. I  
10       was responsible for the oversight of  
11       the program or the evaluation process.

12              Sorry. Things morphed so much,  
13       I'm trying to think of timeframes. I  
14       believe those were my main  
15       responsibilities during that  
16       timeframe.

17              Q.       (BY MR. INNES) One of those  
18       responsibilities was, according to this  
19       document, is a summary of all orders of  
20       interest evaluations; is that right?

21              A.       Can you tell me where you're  
22       looking?

23              Q.       So I'm looking at the first  
24       full line on -- I can read it. The middle of  
25       the page begins, "The health and wellness

1 advisory panel will be responsible for  
2 providing high-level oversight of the  
3 evaluation process. A summary of all order  
4 of interest evaluations and all actions taken  
5 by the health and wellness director,  
6 including the reports submitted to the  
7 federal and state agencies, will be presented  
8 to the panel by the director on a routine  
9 basis as established by the panel."

10 "Director" in that last clause  
11 refers to you; is that correct?

12 A. Yes, I believe so.

13 Q. So you had the responsibilities  
14 I just articulated there?

15 A. Yes.

16 Q. Sorry, that I just recited  
17 there.

18 And did you maintain copies of  
19 those documents and summaries?

20 MS. TABACCHI: Object to the  
21 form.

22 THE WITNESS: Of which  
23 documents?

24 Q. (BY MR. INNES) The summary of  
25 all orders of interest evaluations. Did you

1 document that as part of your summary?

2 I'm sorry, as part of your  
3 report?

4 MS. TABACCHI: Object to the  
5 form.

6 THE WITNESS: I don't remember  
7 creating a specific summary document  
8 of the order of interest evaluations.  
9 But we did keep documentation if there  
10 were order of interest evaluations.

11 Q. (BY MR. INNES) So how did you  
12 present that information to the panel?

13 MS. TABACCHI: Object to the  
14 form.

15 Q. (BY MR. INNES) What was the  
16 typical way that that was done?

17 A. I don't remember the details.  
18 I don't remember.

19 Q. Do you remember ever making  
20 such a presentation to the panel?

21 A. A couple of times, mm-hmm.

22 Q. How many? How many times, do  
23 you think?

24 MS. TABACCHI: Object to the  
25 form.

1 THE WITNESS: I don't remember.

2 Two or three.

3 Q. (BY MR. INNES) So this wasn't  
4 a quarterly, standing meeting? Is that --

5 MS. TABACCHI: Object to the  
6 form.

7 THE WITNESS: I don't remember  
8 how often the report was done.

9 Q. (BY MR. INNES) If we could  
10 flip back one page to Bates No. 11108. It's  
11 the second page of tab 3.

12 How, during this timeframe,  
13 which, again, has been identified by Walmart  
14 as October 2014 to March 2015, was an order  
15 of interest identified?

16 MS. TABACCHI: Object to the  
17 form.

18 THE WITNESS: My understanding  
19 during this time, if this was prior to  
20 the Reddwerks enhancements we made,  
21 said orders would be, as I mentioned,  
22 flagged based on criteria. And then  
23 the logistics compliance team was  
24 involved in determining the orders of  
25 interest.



1           Q.       (BY MR. INNES) Okay. So let's  
2       put a marker down. When -- you said "prior  
3       to Reddwerks." When was it your  
4       understanding that Reddwerks was put in  
5       place?

6                   MS. TABACCHI: Object to the  
7       form.

8                   THE WITNESS: Reddwerks was in  
9       place when I started role. We made  
10      enhancements to Reddwerks.

11                  MR. INNES: Thank you for that.  
12      When were the Reddwerks enhancements  
13      made as related to C-IIIs and C-IIIs?

14                  MS. TABACCHI: Object to the  
15      form.

16                  THE WITNESS: There was a  
17      phased rollout of the enhancements, so  
18      I don't remember exactly when the  
19      rollout went to which DC. But it was  
20      during the -- I believe it was during  
21      the 2015 timeframe.

22                  Q.       (BY MR. INNES) Did -- during  
23      the 2015 timeframe, did it roll out to  
24      DC 6045?

25                  MS. TABACCHI: Object to the

1 form.

2 THE WITNESS: Yes, I believe

3 so.

4 Q. (BY MR. INNES) And how long  
5 was the -- strike that.

6 After the rollout, was it  
7 ever -- was it discontinued at any point in  
8 time?

9 MS. TABACCHI: Object to the  
10 form.

11 THE WITNESS: Can you clarify  
12 that question?

13 MR. INNES: Sure.

14 Q. (BY MR. INNES) So you  
15 testified that the Reddwerks system as it  
16 relates to C-IIs and C-IIIs rolled out to  
17 DC 6045 sometime in 2015.

18 When did it become permanent?

19 MS. TABACCHI: Object to the  
20 form.

21 THE WITNESS: The Reddwerks  
22 enhancement rolled to DC 6045 for  
23 C-IIs, and then the other DCs during  
24 2015 and was in place after that.

25 Q. (BY MR. INNES) So it was

1 seamless. From rollout until whenever  
2 Reddwerks was ultimately discontinued, there  
3 was no break in service, for instance?

4 MS. TABACCHI: Object to the  
5 form.

6 THE WITNESS: We rolled out in  
7 pilot to one DC. And maybe two -- and  
8 we may have had issues in two of them  
9 during our pilot phase where we had to  
10 pull it back out because things were  
11 not working the way we expected.

12 Q. (BY MR. INNES) Was 6045 one of  
13 those?

14 A. I do think 6045 had some issues  
15 when we first rolled out. But if my memory  
16 serves, by the end of 2015, we were back in  
17 6045.

18 Q. During that break, how were --  
19 if they weren't identified -- if orders of  
20 interest weren't identified by Reddwerks, how  
21 were they identified?

22 MS. TABACCHI: Object to the  
23 form.

24 THE WITNESS: Just as I  
25 mentioned before, Reddwerks still had

1 criteria in place to identify orders,  
2 and then logistics compliance was  
3 involved -- I believe they were  
4 involved in determining whether it was  
5 an order of interest.

6 Q. (BY MR. INNES) Okay. So  
7 it's -- the break would have been only as to  
8 the enhancements; right?

9 A. Correct.

10 Q. Okay.

11 A. Correct.

12 Q. But the prior configurations of  
13 Reddwerks would have remained in place?

14 A. Correct.

15 Q. And the prior configuration of  
16 Reddwerks as it relates to orders of  
17 interest, what's your understanding of what  
18 that configuration was?

19 MS. TABACCHI: Object to the  
20 form.

21 THE WITNESS: My understanding  
22 was there were criteria in the system  
23 to flag orders that were over that  
24 criteria.

25 Q. (BY MR. INNES) By "criteria,"

1 do you mean threshold?

2 A. I believe some of the criteria  
3 were what you would consider a threshold, but  
4 I think there was another criteria that was a  
5 difference from a typical average or  
6 something like that.

7 Q. Okay. Do you know how the  
8 thresholds were determined at that time?

9 A. I don't. That was before I was  
10 in role.

11 Q. So part of your  
12 responsibilities and the focus as the  
13 director of controlled substances was to save  
14 a stalled program; is that right?

15 MS. TABACCHI: Object to the  
16 form.

17 THE WITNESS: My  
18 responsibilities were to move forward  
19 with the enhancements that we had  
20 planned.

21 Q. (BY MR. INNES) Okay. And to  
22 determine enhancements, did you have to do an  
23 evaluation of what was happening -- oh, I'm  
24 sorry -- of what the configuration was at the  
25 time?

1 MS. TABACCHI: Object to the  
2 form.

3 THE WITNESS: I was not focused  
4 on the current configuration. I was  
5 focused on what we wanted the  
6 enhancements to be.

7 MS. TABACCHI: Michael, when  
8 you get to a good point, can we take a  
9 quick break?

10 MR. INNES: Sure. Now is  
11 totally fine.

12 VIDEOGRAPHER: We are going off  
13 the record at 10:03 a.m.

14 (Recess taken, 10:03 a.m. to  
15 10:29 a.m.)

16 VIDEOGRAPHER: We are back on  
17 the record at 10:29 a.m.

18 Q. (BY MR. INNES) We're back, and  
19 then I should state for the record, if you  
20 need to take a break at any time, let us  
21 know.

22 A. Okay. Thank you.

23 Q. So during your tenure as  
24 director of controlled substances, we agree  
25 that Walmart had policies in place to prevent

1 the diversion of Schedule II and Schedule III  
2 drugs; is that right?

3 A. Yes. I'm aware of policies to  
4 do that.

5 Q. And in fact you were in charge  
6 of those policies; is that right?

7 MS. TABACCHI: Object to the  
8 form.

9 THE WITNESS: Not all of the  
10 policies.

11 Q. (BY MR. INNES) Not all of the  
12 policies. What policies were you in charge  
13 of?

14 A. I was responsible for policies  
15 related to the order monitoring program for a  
16 period of time. Also our policies related to  
17 prescription monitoring programs and  
18 corresponding responsibility.

19 Q. Corresponding responsibility  
20 to? What is that in reference to?

21 A. It's a requirement our  
22 pharmacists have in evaluating controlled  
23 substances prescriptions.

24 Q. The order monitoring policies,  
25 what were those policies?

1 MS. TABACCHI: Object to the  
2 form.

3 THE WITNESS: There was one  
4 policy that -- I can't remember the  
5 number off the top of my head. It was  
6 one that we reviewed earlier. But I  
7 wasn't responsible for it the entire  
8 time, but there was a portion of the  
9 time that it was -- I was responsible  
10 for the policy.

11 Q. (BY MR. INNES) And what  
12 portion of the time was that?

13 A. I believe the transition  
14 occurred sometime in 2015.

15 Q. Okay. And if you -- you said  
16 we saw it earlier. Do you want to take a  
17 minute and flip through and see if we can  
18 find it?

19 A. Sure.

20 So it would be the 21.04.02  
21 policy.

22 Q. And which tab is that you're  
23 referring to?

24 A. Because I'm not sure of the  
25 timeframe, I'm not sure if it's tab 4 or



1       tab 5.

2               Q.       I can try to help you with  
3       that.

4                       Tab 4 is December 2015 to --  
5       I'm sorry, tab 4 is March 15th to  
6       December 15th.

7               A.       Because I'm not sure of the  
8       timeframe of when the transition occurred for  
9       me to be responsible for the policies, I'm  
10      not sure which one was in effect at that  
11      time.

12              Q.       Okay. So you're aware that  
13      during the time period -- well, you were  
14      aware that for several decades now, the  
15      country has been enduring an opioid epidemic;  
16      is that right?

17                      MS. TABACCHI: Object to the  
18      form.

19                      THE WITNESS: Can you clarify  
20      that.

21              Q.       (BY MR. INNES) During your  
22      time as a controlled substance director, do  
23      you agree that the country is enduring an  
24      opioid epidemic?

25              A.       Yes.

1           Q.       And as part of your  
2       responsibilities as controlled substance  
3       director was to make sure that Walmart  
4       complied with the DEA's regulations; is that  
5       right?

6                   MS. TABACCHI: Object to the  
7       form.

8                   THE WITNESS: There are certain  
9       regulations that I was responsible for  
10      supporting the compliance program, not  
11      all of DEA's regulations.

12          Q.       (BY MR. INNES) And those  
13      regulations that you were responsible for,  
14      those related to the distribution of C-IIs  
15      and C-IIIs?

16                  MS. TABACCHI: Object to the  
17      form.

18                  THE WITNESS: Some of them did,  
19      yes.

20          Q.       (BY MR. INNES) And as you sit  
21      here today, you can't recall which policies  
22      were in place during that time?

23                  MS. TABACCHI: Object to the  
24      form, misstates the testimony.

25                  THE WITNESS: I recall which

1 policies were in place at that time.

2 I don't recall when I transitioned to  
3 be the one responsible for that  
4 policy, what time that occurred.

5 Q. (BY MR. INNES) Okay. I mean,  
6 that's a pretty big responsibility; right?  
7 When we're -- taking over the policies that  
8 are directly related to C-IIs and C-IIIs?

9 MS. TABACCHI: Object to the  
10 form.

11 THE WITNESS: There was a  
12 logistics compliance and practice  
13 compliance -- were both involved in  
14 the order monitoring process. At one  
15 point in time, logistics compliance  
16 was the lead responsible party, and  
17 that transitioned to practice  
18 compliance being the lead responsible  
19 party.

20 Q. (BY MR. INNES) But you don't  
21 recall when that transition occurred?

22 A. I don't remember the exact  
23 date.

24 Q. Approximate date?

25 A. It was generally in 2015

1       sometime.

2               Q.       So when you took that role on,  
3       what did you do?

4               MS. TABACCHI:   Object to the  
5       form.

6               THE WITNESS:   I don't remember  
7       exactly.   I believe we were still  
8       working on the enhancements to  
9       Reddwerks, so it was continued work on  
10      that.

11              Q.       (BY MR. INNES)   What did you do  
12      to identify excessive quantities of  
13      controlled substances that were ordered in a  
14      given period of time?

15              MS. TABACCHI:   Object to the  
16      form.

17              THE WITNESS:   So we put the  
18      Reddwerks enhancements in place to  
19      identify orders of interest.

20              Q.       (BY MR. INNES)   Okay.   What  
21      were those enhancements?

22              A.       We made adjustments to  
23      thresholds for pharmacies, and we allowed a  
24      longer timeframe for orders to be evaluated.  
25              We also brought the evaluation

1 process to the home office.

2 Q. Okay. So any other  
3 enhancements that were made?

4 MS. TABACCHI: Object to the  
5 form.

6 THE WITNESS: Nothing I can  
7 think of right now.

8 Q. (BY MR. INNES) Is there  
9 anything that would refresh your recollection  
10 as to what enhancements were made?

11 MS. TABACCHI: Object to the  
12 form.

13 THE WITNESS: I don't know.

14 Q. (BY MR. INNES) You stated one  
15 of the enhancements was adjustments to the  
16 thresholds. When was that enhancement put in  
17 place?

18 MS. TABACCHI: Object to the  
19 form.

20 THE WITNESS: As we rolled out  
21 the Reddwerks upgrade.

22 Q. (BY MR. INNES) And when was  
23 that?

24 A. It went into the DCs at various  
25 times throughout 2015.

1 Q. When did it go to DC 6045?

2 A. I don't remember exactly.

3 Q. When you say "adjustments to  
4 thresholds," what exactly does that mean?

5 A. The thresholds were more  
6 tailored for specific locations and specific  
7 drugs.

8 Q. How did you tailor them to  
9 specific locations?

10 MS. TABACCHI: Object to the  
11 form.

12 THE WITNESS: There was -- the  
13 thresh -- the updated thresholds were  
14 developed before I started in role,  
15 but my understanding is there was a  
16 third party with experience in  
17 statistics that developed the process  
18 for the thresholds.

19 Q. (BY MR. INNES) Okay. I  
20 thought we were -- your earlier testimony was  
21 that you were focused on enhancements to  
22 thresholds. Right?

23 A. (Witness nods.)

24 Q. That --

25 A. Yes. Actually implementing

1       those into the system.

2               Q.       Okay. So development of  
3       thresholds occurred prior to you taking the  
4       role?

5                       MS. TABACCHI: Object to the  
6       form.

7                       THE WITNESS: The -- yes. The  
8       concept for how thresholds would be  
9       developed in the new version was done  
10      before I was in role.

11              Q.       (BY MR. INNES) And did you  
12      have any -- after you came into the role, did  
13      you have any input into the adjustment of  
14      thresholds?

15                      MS. TABACCHI: Object to the  
16      form.

17                      THE WITNESS: Yes.

18              Q.       (BY MR. INNES) And what was  
19      that?

20              A.       There were occasions where we  
21      would adjust thresholds based on evaluation  
22      of a specific pharmacy and their threshold  
23      versus a big drug.

24              Q.       What was -- what went into that  
25      evaluation?

1 MS. TABACCHI: Object to the  
2 form.

3 THE WITNESS: After a review of  
4 an order, a detailed review of an  
5 order, if a threshold didn't seem to  
6 be correct for that drug, myself and  
7 the senior director of logistics could  
8 decide that a threshold needed to be  
9 modified.

10 Q. (BY MR. INNES) What went into  
11 that review?

12 MS. TABACCHI: Object to the  
13 form.

14 Q. (BY MR. INNES) Exactly what  
15 was the review that you did?

16 MS. TABACCHI: Object to the  
17 form.

18 THE WITNESS: Oh, okay. We  
19 reviewed data from the pharmacy  
20 location and then had a discussion to  
21 understand whether or not we felt the  
22 current threshold was appropriate  
23 based on the data. And if not, then  
24 we would make a modification.

25 Q. (BY MR. INNES) Okay. So what



1 data were you looking at?

2 MS. TABACCHI: Object to the  
3 form.

4 THE WITNESS: We looked at  
5 their dispensing data.

6 Q. (BY MR. INNES) Anything else?

7 A. I mean, we -- typically we'd  
8 have feedback from the pharmacy about, you  
9 know, why they might need more, and then  
10 dispensing data to see if that seemed  
11 appropriate.

12 Q. And "feedback from the  
13 pharmacy," what do you mean by that?

14 A. There were times when we would  
15 call the pharmacy or also talk to their  
16 market leader and ask questions about the  
17 pharmacy and, you know, why there may be a  
18 change in dispensing.

19 Q. A couple of times you've said  
20 "We" would call the pharmacy or "we" would do  
21 something. Who are you referring to when you  
22 say "we"?

23 A. There were -- logistics  
24 compliance may have been involved and then  
25 also our team in practice compliance.

1 Q. Okay.

2 A. Our team in practice  
3 compliance.

4 Q. Who were those team members?

5 MS. TABACCHI: Object to the  
6 form.

7 THE WITNESS: They changed over  
8 time, but Roxy Reed was on my team.

9 The logistics team included  
10 Jeff Abernathy, Dena McClamroch.  
11 Kristy Spruell.

12 There were a couple other folks  
13 that kind of came -- you know, came in  
14 and out. I can't think of everyone's  
15 name at this point in time.

16 Q. (BY MR. INNES) Okay. This  
17 review process for determining threshold  
18 adjustments, was it documented?

19 A. The process itself, or ...

20 Q. Well, you've ticked off a few  
21 things that you looked at and conversations  
22 that you've had. Did you memorialize those  
23 data points and conversations in any way?

24 MS. TABACCHI: Object to the  
25 form.

1 THE WITNESS: It would occur  
2 after we were evaluating an order of  
3 interest. And so the notes from the  
4 order of interest were documented.

5 Q. (BY MR. INNES) And where are  
6 those documented?

7 MS. TABACCHI: Object to the  
8 form.

9 THE WITNESS: They're  
10 maintained in a system called Archer.

11 Q. (BY MR. INNES) What's Archer?

12 A. It's a tool that the compliance  
13 group uses to -- almost like an electronic  
14 record-keeping tool, database.

15 Q. And is that the only -- is that  
16 the only place where these -- the  
17 documentation of this process occurred?

18 MS. TABACCHI: Object to the  
19 form.

20 THE WITNESS: Can you clarify  
21 that?

22 Q. (BY MR. INNES) So you've said  
23 that you used Archer to document the process.

24 A. Mm-hmm. (Witness nods.)

25 Q. Were there any memos that were

1        saved in a central file?

2            A.        Not that I'm aware of.    The  
3        notes were to be taken in Archer.

4            Q.        How do you take -- describe to  
5        me the process of taking notes in Archer.

6            A.        It's basically an electronic  
7        form.    And there are spots to place certain  
8        data elements and, you know, text fields  
9        where you could type in notes.

10          Q.        Okay.

11          A.        And then that's saved  
12        electronically.

13          Q.        So you have places where you  
14        can put a narrative form of a statement, for  
15        instance?

16          A.        There were places for narrative  
17        forms.

18          Q.        Okay.

19          A.        There were drop-down menus.  
20        There were a variety of options within the  
21        form.

22          Q.        And who was in charge of -- I'm  
23        sorry, strike that.

24                      Who determined what information  
25        would be in the drop-downs?

1 MS. TABACCHI: Object to the  
2 form.

3 MR. INNES: I'll withdraw the  
4 question.

5 THE WITNESS: Okay.

6 Q. (BY MR. INNES) I want to talk  
7 about the configuration of Archer.

8 A. Okay.

9 Q. You just testified that Archer  
10 had certain drop-downs. What were in those  
11 drop-downs?

12 MS. TABACCHI: Object to the  
13 form.

14 THE WITNESS: I don't remember  
15 all the things that were drop-downs,  
16 but it was typically a decision or,  
17 you know, something that could be  
18 standardized.

19 So, for example, we would  
20 document what type of order it was.  
21 Was it something that the replenish  
22 system ordered or manual?

23 Another example was what was  
24 our final determination on the order?  
25 Was it suspicious or was it

1 appropriate?

2 So it was -- it was things that  
3 were very cut and dry.

4 Q. (BY MR. INNES) Okay.

5 A. Does that make sense?

6 Q. Right. And what went into the  
7 narrative portions?

8 MS. TABACCHI: Object to the  
9 form.

10 THE WITNESS: It would be notes  
11 from the individual evaluating the  
12 order.

13 Q. (BY MR. INNES) And is it just  
14 one individual evaluating the order?

15 MS. TABACCHI: Object to the  
16 form.

17 THE WITNESS: A specific --  
18 evaluating a specific order? Is that  
19 what you're asking?

20 Q. (BY MR. INNES) Yes.

21 A. It could have been. It  
22 depended on the order. There could have been  
23 more than one individual involved.

24 Q. Would there be -- would there  
25 always be someone from health and wellness

1 logistics?

2 MS. TABACCHI: Object to the  
3 form.

4 THE WITNESS: As far as I know,  
5 yes. There would have been someone --  
6 yes.

7 For -- for a period of time.  
8 There was a period of time where it  
9 was transitioned to solely compliance.

10 Q. (BY MR. INNES) What period of  
11 time was that?

12 A. That was in 2017, late 2017.

13 Q. Okay. And prior to 2017, were  
14 folks other than those in logistics involved  
15 in importing information into Archer?

16 A. Logistics --

17 MS. TABACCHI: Object to the  
18 form.

19 THE WITNESS: -- and practice  
20 compliance.

21 Q. (BY MR. INNES) And practice  
22 compliance would have been your group?

23 A. Yes.

24 Q. And who from your group would  
25 have entered information into Archer relating

1 to threshold adjustments?

2 MS. TABACCHI: Object to the  
3 form.

4 THE WITNESS: It could have  
5 been myself or Roxy Reed.

6 Q. (BY MR. INNES) Did you ever  
7 have internal meetings regarding the  
8 increasing a threshold of a particular  
9 pharmacy?

10 MS. TABACCHI: Object to the  
11 form.

12 THE WITNESS: Yes.

13 Q. (BY MR. INNES) Were notes  
14 taken during those meetings?

15 MS. TABACCHI: Object to the  
16 form.

17 THE WITNESS: Yes, they would  
18 be documented in Archer.

19 Q. (BY MR. INNES) So the  
20 policy -- sorry. Was that a policy to  
21 document notes in Archer?

22 A. I don't remember if it was in  
23 the policy itself. It was our process.

24 Q. So the normal course of  
25 performing a threshold adjustment evaluation,



1       you would record your notes in Archer?

2                   MS. TABACCHI: Object to the  
3                   form.

4                   THE WITNESS: Yes.

5               Q.       (BY MR. INNES) Anyone involved  
6       in that particular threshold adjustment would  
7       record their notes in Archer?

8                   MS. TABACCHI: Object to the  
9                   form.

10                  THE WITNESS: Yes, that was our  
11                  process.

12               Q.       (BY MR. INNES) If there was  
13       a -- the drop-down menu. I want to go back  
14       to that for a second. It sounded like there  
15       were -- could you select multiple -- make  
16       multiple selections in that particular  
17       drop-down? Or was it more binary?

18                  MS. TABACCHI: Object to the  
19                  form.

20                  THE WITNESS: Which drop-down  
21                  are you referring to?

22                  MR. INNES: Good question.

23               Q.       (BY MR. INNES) How many  
24       drop-downs were there?

25               A.       I don't remember exactly.

1           Q.       Okay. Was there a -- if there  
2       are two people involved, for instance,  
3       involved in entering information into Archer  
4       for purposes of threshold adjustments, were  
5       there ever conflicts between what people  
6       wanted to select in the drop-down menus?

7                   MS. TABACCHI: Object to the  
8       form.

9                   THE WITNESS: Not that I'm  
10      aware of.

11           Q.       (BY MR. INNES) Is it possible?

12                   MS. TABACCHI: Same objection.

13                   THE WITNESS: The different  
14      individuals would have been  
15      responsible for different portions of  
16      the review.

17           Q.       (BY MR. INNES) Okay. So  
18      during the time period when there was someone  
19      from your team and someone from the logistics  
20      team, there was a division of labor as to  
21      what criteria folks would enter into Archer?

22           A.       Yes. The logistics team was  
23      responsible for an initial evaluation, and  
24      then practice compliance would be involved in  
25      the process if the order was not deemed

1 appropriate from the initial evaluation.

2 Q. Okay. So perhaps we slipped  
3 into something else.

4 I'm talking about adjustments  
5 for thresholds. Are you now talking about  
6 evaluations of orders of interest?

7 A. It typically happened together.

8 Q. Okay. All right.

9 So if, for instance, a pharmacy  
10 ordered something that was flagged as an  
11 order of interest, was Walmart's policy then  
12 to look at that order of interest to  
13 determine whether it needed to have a  
14 threshold change?

15 MS. TABACCHI: Object to the  
16 form.

17 THE WITNESS: I don't remember  
18 us having that in the policy. What  
19 would happen is if a pharmacy flagged  
20 as an order of interest multiple  
21 times, we may evaluate to see if the  
22 threshold was appropriate.

23 Q. (BY MR. INNES) Okay. What was  
24 the criteria -- so what were the criteria  
25 that went into deciding to do a threshold

1 evaluation?

2 MS. TABACCHI: Object to the  
3 form.

4 THE WITNESS: There wasn't set  
5 criteria. As I mentioned, it was most  
6 often if a pharmacy was flagging like  
7 multiple times, we did not find  
8 anything that would make those orders  
9 suspicious or anything of concern, we  
10 would then evaluate it -- consider if  
11 a threshold increase was appropriate.

12 Q. (BY MR. INNES) This system at  
13 the time, was it -- we're talking about the  
14 Reddwerks system right now?

15 A. Yes.

16 Q. So the Reddwerks system, with  
17 or without enhancements?

18 A. With enhancements.

19 Q. With enhancements?

20 A. Mm-hmm.

21 Q. So the Reddwerks system with  
22 enhancements would flag an order of interest?

23 A. Yes.

24 Q. How would it go about flagging  
25 that order of interest?

1 MS. TABACCHI: Object to the  
2 form.

3 THE WITNESS: There were  
4 thresholds set in Reddwerks.

5 MR. INNES: Okay.

6 Q. (BY MR. INNES) And those  
7 thresholds were set to identify an order that  
8 warrants follow-up evaluation to determine  
9 whether or not it is suspicious; is that  
10 right?

11 A. Yes.

12 Q. Okay. So if Walmart --  
13 Walmart's practice was to consider whether or  
14 not to increase a threshold for a particular  
15 pharmacy, after it received multiple flags  
16 for an order that was potentially suspicious?

17 MS. TABACCHI: Object to the  
18 form. Misstates testimony.

19 THE WITNESS: It was Walmart's  
20 common practice that if an order was  
21 flagged multiple times with no concern  
22 that was deemed appropriate, we would  
23 then evaluate whether or not the  
24 threshold was appropriate for that  
25 pharmacy and that drug.

1 Q. (BY MR. INNES) You mentioned  
2 that a -- I believe your testimony was that  
3 the thresholds were originally set by a third  
4 party? Is that -- is that your testimony?

5 A. We had a third party who  
6 reviewed the data and made recommendations  
7 for how to develop a threshold.

8 Q. Do you recall the name of that  
9 third party?

10 A. Mu Sigma.

11 Q. And do you recall what their  
12 recommendation was?

13 MS. TABACCHI: Object to the  
14 form.

15 THE WITNESS: Based on my  
16 memory, it was -- I believe it was  
17 three times a standard deviation or  
18 something similar to that.

19 Q. (BY MR. INNES) Can you explain  
20 what "three times a standard deviation" is?

21 A. I can't.

22 Q. Did Walmart ultimately accept  
23 Mu Sigma's recommendation that a threshold  
24 should be set by three times the standard  
25 deviation?

1 MS. TABACCHI: Object to the  
2 form.

3 THE WITNESS: Yes, for most  
4 products.

5 Q. (BY MR. INNES) For C-IIs and  
6 C-IIIs?

7 MS. TABACCHI: Object to the  
8 form.

9 THE WITNESS: We did modify  
10 thresholds to be lower in some cases.

11 Q. (BY MR. INNES) So --

12 A. So if a threshold on a product  
13 was greater -- based on this calculation  
14 would have been greater than 5,000 dosage  
15 units, we would lower it down to that.

16 So that we could monitor  
17 closely.

18 Q. When you say "on a product,"  
19 what do you mean "on a product"?

20 A. We also made some adjustments  
21 on liquid products, because the calculations  
22 would -- would typically make the threshold  
23 too high. It would be an amount that would  
24 be unreasonable for a pharmacy to be able to  
25 store from a liquid product standpoint, so we

1       artificially lowered those as well.

2               Q.       Did you artificially lower any  
3       other thresholds for any other products?

4               A.       Not that I can think of.

5               Q.       Did you artificially raise a  
6       threshold for any other products that you can  
7       think of?

8                       MS. TABACCHI:   Object to the  
9       form.

10                      THE WITNESS:   We did not  
11       artificially raise a threshold for any  
12       product.

13               Q.       (BY MR. INNES)   Did you raise a  
14       threshold for any product?

15                      MS. TABACCHI:   Object to the  
16       form.

17                      THE WITNESS:   We did raise  
18       thresholds occasionally for a product  
19       or a specific location and a specific  
20       product.

21               Q.       (BY MR. INNES)   And that was  
22       the process we just discussed?

23               A.       Yes.

24               Q.       So, I just want to make sure I  
25       have this right.



1                   You accepted -- Walmart  
2       accepted Mu Sigma's threshold calculations  
3       three times the standard deviation, and  
4       Walmart -- but Walmart carved out of that  
5       liquid products?

6                   MS. TABACCHI: Object to the  
7       form.

8                   THE WITNESS: I didn't say we  
9       carved that out. What we did on some  
10      of the liquid products was lower the  
11      threshold that would have been  
12      calculated based on their  
13      recommendation.

14                  Q.       (BY MR. INNES) But as far as  
15      it goes for all other C-IIs or C-IIIs that  
16      are not liquid products, Walmart went with  
17      the three times the standard deviation as the  
18      threshold?

19                  MS. TABACCHI: Object to the  
20      form. Misstates testimony.

21                  THE WITNESS: Generally, but if  
22      it would have made a threshold above  
23      5,000 dosage units, we would lower it  
24      to 5,000 dosage units.

25                  Q.       (BY MR. INNES) And would you

1 be -- the further adjustments -- or the  
2 further caveats that would be accepted the  
3 three times the standard deviation unless it  
4 went through an eval, threshold evaluation  
5 and you increased it above the three times  
6 the standard deviation?

7 MS. TABACCHI: Object to the  
8 form.

9 THE WITNESS: I don't know that  
10 we ever increased above the three  
11 times the standard deviation. Often  
12 what we would see is we had lowered  
13 the threshold to the 5,000 dosage  
14 units, and we would adjust above that.

15 Q. (BY MR. INNES) If I gave you  
16 the number of a hypothetical order, would you  
17 know how to calculate the three times the  
18 standard deviation?

19 A. No. That wasn't something that  
20 I did.

21 Q. I wouldn't know how to do that.

22 But are you aware that the  
23 three times the standard deviation would  
24 encompass 99.7 percent of all thresholds from  
25 the mean average?

1 MS. TABACCHI: Object to the  
2 form.

3 THE WITNESS: I -- no.

4 Q. (BY MR. INNES) As a director  
5 of controlled substances and one that had a  
6 major role in threshold evaluation, do you  
7 think it's important to understand how the  
8 thresholds were set?

9 MS. TABACCHI: Object to the  
10 form.

11 THE WITNESS: Yes.

12 Q. (BY MR. INNES) Okay. But you  
13 don't know what three times the standard  
14 deviation is?

15 MS. TABACCHI: Object to the  
16 form.

17 THE WITNESS: I don't.

18 Q. (BY MR. INNES) You testified  
19 earlier that when you looked -- that during  
20 the threshold data -- threshold adjustment  
21 evaluation, you looked at data; is that  
22 right?

23 A. Yes.

24 Q. And the data that you looked at  
25 was dispensing data?

1 A. Yes.

2 Q. Any other data that you looked  
3 at?

4 MS. TABACCHI: Object to the  
5 form.

6 THE WITNESS: I don't remember  
7 any other data.

8 Q. (BY MR. INNES) Do you not  
9 remember any other data or there was no  
10 other?

11 A. I don't think there was other  
12 data.

13 Q. You didn't look at the  
14 geographical location of a pharmacy, for  
15 instance?

16 MS. TABACCHI: Object to the  
17 form.

18 THE WITNESS: Yes, I would not  
19 necessarily consider that data.

20 Q. (BY MR. INNES) Okay. What do  
21 you consider to be data?

22 A. Numbers.

23 Q. So what other information did  
24 you consider when making a threshold  
25 adjustment, other than dispensing data?

1           A.       As I mentioned earlier, if we  
2       had feedback from the market director or our  
3       pharmacist. We also knew the geographic  
4       location. In addition, we knew information  
5       about what else -- other aspects of the  
6       pharmacy, so if it had any regulatory visits  
7       or things like that. We had access to that  
8       information.

9           Q.       Okay. What kind of feedback  
10      would you receive from the market director,  
11      generally speaking?

12          A.       It depended on the  
13      conversation, but they could provide us with  
14      information about the geographic location,  
15      what -- is this a rural area? Is it urban?

16                  I remember several threshold  
17      increases that were related to other  
18      pharmacies -- local pharmacies closing in the  
19      area, which would mean that patients had to  
20      find a new pharmacy, and so they'll be able  
21      to provide us with that type of information.

22          Q.       You relied on those individuals  
23      to give you that information to the home  
24      office?

25                  MS. TABACCHI: Object to the

1 form.

2 THE WITNESS: We would ask them  
3 for information, yes.

4 Q. (BY MR. INNES) Did the home  
5 office ever do its own independent  
6 investigation about the data -- or the  
7 information you just mentioned?

8 MS. TABACCHI: Object to the  
9 form.

10 THE WITNESS: Yes, we would.

11 Q. (BY MR. INNES) And did you  
12 document that?

13 A. I believe so. I believe it  
14 would be documented in the notes in Archer.

15 Q. Were you required to document  
16 that in Archer?

17 MS. TABACCHI: Object to the  
18 form.

19 THE WITNESS: As I mentioned,  
20 it was a practice. We didn't have  
21 like a list of everything that had to  
22 be documented.

23 Q. (BY MR. INNES) You said you  
24 had like a list of everything that had to be  
25 documented.

1           A.       I said we did not have a list.

2           Q.       So there is no standard  
3       protocol for this piece of the investigation  
4       for a threshold increase?

5                   MS. TABACCHI: Object to the  
6       form.

7                   THE WITNESS: There was -- we  
8       required specific information in the  
9       Archer form, but we did not go down to  
10      every single item that had to be  
11      documented.

12          Q.       (BY MR. INNES) Can you explain  
13      that? So "We required specific information  
14      in the Archer form, but we did not go down to  
15      every single item that had to be documented."  
16      What -- so was there information that wasn't  
17      documented in Archer that you would consider?

18          A.       There was information that may  
19      not be needed for a specific evaluation.

20          Q.       Who made that determination?

21                   MS. TABACCHI: Object to the  
22      form.

23                   THE WITNESS: The individual  
24      evaluating the order.

25          Q.       (BY MR. INNES) Is it that the

1 individual evaluating the order stated their  
2 reasons in Archer for making the  
3 recommendation as to the threshold?

4 MS. TABACCHI: Object to the  
5 form.

6 THE WITNESS: The person  
7 evaluating the order didn't actually  
8 make a recommendation. That was a  
9 decision that was made after the order  
10 was determined to be appropriate.  
11 Myself and the senior director of  
12 logistics would discuss whether or not  
13 a threshold adjustment was  
14 appropriate.

15 Q. (BY MR. INNES) So when you  
16 discussed with a senior director of logistics  
17 whether or not a threshold adjustment was  
18 appropriate, you were considering the notes  
19 in Archer?

20 A. Yes.

21 Q. Is that right?

22 Your deliberations between the  
23 director of logistics and you --

24 A. (Witness nods.)

25 Q. -- were those deliberations



1 memorialized in any way?

2 A. We documented notes in Archer.

3 Q. So you also put notes in  
4 Archer?

5 A. Mm-hmm. (Witness nods.)

6 MS. TABACCHI: I'm just going  
7 to remind the witness to answer  
8 audibly instead of an mm-hmm.

9 THE WITNESS: Okay. Sorry.

10 MR. INNES: Thank you.

11 Q. (BY MR. INNES) Now I'm having  
12 trouble with the glare.

13 Did you ever do any analysis of  
14 what a -- strike that.

15 When considering a threshold  
16 increase of a particular pharmacy, did you  
17 ever look at other pharmacies in like  
18 geographic regions or like situations or like  
19 ordering patterns to determine whether or not  
20 the threshold increase was justified?

21 MS. TABACCHI: Object to the  
22 form.

23 THE WITNESS: We did not, that  
24 I can recall.

25 Q. (BY MR. INNES) One of the

1 enhancements you mentioned was more time.

2 What do you mean -- what did  
3 you mean by "more time"?

4 A. It made it easier in the system  
5 to pull out those orders separately from  
6 other orders that hadn't pinned it.

7 Q. Okay. So this is -- is this  
8 less an adjustment to -- strike that.

9 More time for -- strike that.

10 So these enhancements, the  
11 adjustments of threshold, more time, and  
12 evaluation of home office, of those three,  
13 the adjustments to threshold is really the  
14 only one directed at flagging or of interest;  
15 is that right?

16 MS. TABACCHI: Object to the  
17 form.

18 THE WITNESS: Yes.

19 Q. (BY MR. INNES) And the "more  
20 time" is for evaluation purposes?

21 A. Yes.

22 Q. Okay.

23 And the evaluation of the home  
24 office, obviously that is for evaluation  
25 purposes?

1 A. Yes.

2 Q. Where was that evaluation  
3 occurring prior to the home office?

4 MS. TABACCHI: Object to the  
5 form.

6 Q. (BY MR. INNES) If at all?

7 A. Prior to my role, my  
8 understanding is it occurred in the DCs.

9 Q. Okay.

10 And remind me again. You  
11 started in your role when?

12 A. October 2014.

13 Q. So prior to October 2014,  
14 evaluations of orders of interest happened at  
15 the DCs?

16 A. That's my understanding.

17 Q. And when did the enhancements  
18 go into effect in 6045?

19 MS. TABACCHI: Object to the  
20 form.

21 THE WITNESS: I think I  
22 mentioned earlier, I'm not sure  
23 exactly when, but it was in 2015.

24 Q. (BY MR. INNES) What did  
25 Walmart do, if anything, to identify whether

1 controlled substances were being ordered in  
2 quantities disproportionate to the quantity  
3 of non-controlled medications?

4 MS. TABACCHI: Object to the  
5 form.

6 THE WITNESS: Can you clarify  
7 timeframe or --

8 MR. INNES: Any timeframe.

9 THE WITNESS: -- just --

10 MS. TABACCHI: Object to the  
11 form, lack of foundation.

12 THE WITNESS: So I'm only  
13 familiar with what was done when I was  
14 in role. But as part of your  
15 evaluation process, we did review the  
16 percentage of controlled substances  
17 versus non-controlled substances.

18 Q. (BY MR. INNES) And what  
19 evaluation process are you referring to?

20 A. Evaluation of an order of  
21 interest.

22 Q. When did you first start  
23 considering that --

24 MS. TABACCHI: Object to the  
25 form.

1 Q. (BY MR. INNES) -- in your  
2 evaluations of orders of interest?

3 MS. TABACCHI: Same objection.

4 THE WITNESS: I don't remember  
5 the exact date.

6 Q. (BY MR. INNES) Do you remember  
7 an approximate date?

8 A. They would have been sometime  
9 in 2015, potentially end of 2014 that I know  
10 of. It could have happened earlier.

11 Q. Do you have personal knowledge  
12 of considering that information when  
13 reviewing orders of interest?

14 MS. TABACCHI: Object to the  
15 form.

16 THE WITNESS: Can you ask that  
17 again?

18 Q. (BY MR. INNES) Can you point  
19 to any instance where you know that that  
20 information was considered when evaluating an  
21 order of interest?

22 MS. TABACCHI: Object to the  
23 form.

24 THE WITNESS: I reviewed it  
25 when I evaluated orders of interest.

1 Q. (BY MR. INNES) Okay. And you  
2 believe that was beginning in 2014 or 2015?

3 A. Yes.

4 Q. And do you have any  
5 documentation that that was considered as  
6 part of your evaluation?

7 A. It was part of the information  
8 in Archer that we reviewed.

9 Q. And how was it part of the  
10 information in Archer?

11 A. It was included in Archer, with  
12 the store.

13 Q. Was it information that you  
14 inputted into Archer?

15 A. Yes.

16 Q. As part of your evaluation?

17 A. It was done for all locations  
18 so that it was available when the order of  
19 interest was being evaluated.

20 Q. Okay. So you're looking at the  
21 Archer interface, and there's a portion of  
22 the Archer interface that gives you that data  
23 point?

24 A. Yes.

25 Q. And what weight, if any, did

1       you give to that data -- that data point when  
2       considering an order of interest?

3                   MS. TABACCHI: Object to the  
4       form.

5                   THE WITNESS: It was a relevant  
6       point that was reviewed when we were  
7       evaluating an order of interest.

8       Q.       (BY MR. INNES) When  
9       considering the information data in Archer as  
10      part of the order of interest evaluation, you  
11      considered multiple pieces of information; is  
12      that correct?

13      A.       Correct.

14      Q.       And they were considered in  
15      total; is that correct?

16      A.       Correct.

17      Q.       And were certain data points  
18      more important to you than others?

19                   MS. TABACCHI: Object to the  
20      form.

21                   THE WITNESS: I don't believe  
22      there was specific data points that  
23      were more important. It was  
24      evaluating the data and information  
25      available as a whole.

1 Q. (BY MR. INNES) And did you  
2 reach -- did that -- did all -- was all of  
3 that data ever distilled to one metric?

4 MS. TABACCHI: Object to the  
5 form.

6 THE WITNESS: Can you ask that  
7 again?

8 Q. (BY MR. INNES) Yeah. So when  
9 you're considering all these different data  
10 points and information that is available to  
11 you in Archer, but the information is  
12 calculated for you and then your  
13 consideration of notes with conversations  
14 with market leaders, market directors, at  
15 that point is it -- it's a -- sort of a gut  
16 call of this seems suspicious, this does not  
17 seem suspicious?

18 MS. TABACCHI: Object to the  
19 form.

20 THE WITNESS: No, it's an  
21 evaluation of all the information  
22 available to determine whether or not  
23 an order is suspicious.

24 Q. (BY MR. INNES) And what do you  
25 benchmark those -- that data against to



1       determine whether or not it's a suspicious  
2       order or not?

3                   MS. TABACCHI:   Object to the  
4       form.

5                   THE WITNESS:   I -- I don't know  
6       that I would call it "benchmarking,"  
7       but when you review the information  
8       available and the data, you're able to  
9       either explain and understand why an  
10      order was placed or you are not.   And  
11      if you're not able to explain it or if  
12      the explanation is not a -- is not an  
13      appropriate explanation, then those  
14      are the orders that we would report as  
15      suspicious.

16           Q.       (BY MR. INNES)   Who determines  
17      whether or not it's an appropriate  
18      explanation?

19                   MS. TABACCHI:   Object to the  
20       form.

21                   THE WITNESS:   There were  
22       various individuals involved in the  
23       process that could make that  
24       determination.

25           Q.       (BY MR. INNES)   Can you tell me

1       who those individuals were and the specific  
2       time periods that they were involved in  
3       making that determination?

4               A.       So the logistics compliance  
5       team did an initial review. And then if they  
6       were not able to determine that the order was  
7       appropriate, they would send it to the  
8       practice compliance team for a more  
9       comprehensive evaluation. Then the final  
10      decision was made by myself and the senior  
11      director of logistics.

12             Q.       And what time period --

13             A.       That was until late 2017.

14             Q.       So from your -- that process  
15      you just described was from the beginning --  
16      your first day on the job until late 2017?

17             A.       No. There was a period of time  
18      at the beginning that the distribution center  
19      was still responsible for the evaluation of  
20      orders.

21             Q.       And what period of time was  
22      that?

23             A.       That was until the Reddwerks  
24      enhancements was rolled out.

25             Q.       Okay. During the -- from when

1 Reddwerks was rolled out until late 2017,  
2 that process that you've described, who was  
3 in charge on the practice compliance side?

4 A. Myself.

5 Q. And who was in charge on the  
6 logistics portion?

7 MS. TABACCHI: Object to the  
8 form.

9 THE WITNESS: It was the senior  
10 director of logistics.

11 Q. (BY MR. INNES) Was that  
12 Chad Ducote?

13 MS. TABACCHI: Object to the  
14 form.

15 THE WITNESS: I believe he was  
16 enrolled the majority, if not all, of  
17 that time.

18 Q. (BY MR. INNES) What did you  
19 do -- strike that.

20 Were pharmacies permitted to  
21 order C-IIs and C-IIIs from anyone other than  
22 Walmart?

23 A. Yes.

24 Q. And when was that?

25 A. During -- I know during the

1 time period that I was in role.

2 Q. So from when you started the  
3 role until the present day?

4 MS. TABACCHI: Object to the  
5 form.

6 THE WITNESS: Yes. Present day  
7 we do not self-distribute, so they  
8 order from others.

9 Q. (BY MR. INNES) And from  
10 whom -- or what entity did they order those  
11 C-IIIs and C-IIIs?

12 MS. TABACCHI: Object to the  
13 form.

14 THE WITNESS: Walmart  
15 pharmacies had the ability to order  
16 from McKesson.

17 Q. (BY MR. INNES) Okay. Did you  
18 consider -- or did Walmart consider  
19 pharmacies' purchases or orders from --  
20 direct purchases from McKesson as part of  
21 their threshold analysis?

22 MS. TABACCHI: Object to the  
23 form.

24 THE WITNESS: Walmart had  
25 visibility to all C-IIIs orders being

1 placed to McKesson because those went  
2 through a centralized CSOS process.

3 Q. (BY MR. INNES) Okay. So I  
4 think my question is slightly different. Not  
5 whether or not you had visibility, but  
6 whether or not you actually considered those  
7 orders as part of the threshold interest.

8 MS. TABACCHI: Object to the  
9 form.

10 Q. (BY MR. INNES) Or threshold  
11 evaluation.

12 THE WITNESS: The -- whether or  
13 not we're going to increase a  
14 threshold? Is that what you're asking  
15 about?

16 Q. (BY MR. INNES) Yeah.

17 A. Yes, we did.

18 Q. (BY MR. INNES) And when did  
19 you start doing that?

20 A. I believe we were look --  
21 considering those McKesson orders in our  
22 order evaluations from when we started the  
23 process with the new Reddwerks system, the  
24 Reddwerks enhancements.

25 Q. Reddwerks enhancements?

1           A.       Yes.

2           Q.       So prior to the Reddwerks  
3       enhancements, to your knowledge did Walmart  
4       consider McKesson orders as part of threshold  
5       evaluations?

6                   MS. TABACCHI: Object to the  
7       form.

8                   THE WITNESS: I don't believe  
9       there were threshold adjustments prior  
10      to the Reddwerks enhancements.

11                  MR. INNES: Okay.

12          Q.       (BY MR. INNES) The -- were the  
13      thresholds static prior to the Reddwerks  
14      enhancements?

15                  MS. TABACCHI: Object to the  
16      form.

17                  THE WITNESS: My understanding  
18      prior to the Reddwerks enhancements  
19      was there was -- there were specific  
20      criteria built into Reddwerks, and  
21      those weren't easily changed.

22                  And I don't -- I don't believe  
23      they were -- could be changed for a  
24      specific location.

25          Q.       (BY MR. INNES) And when the

1 Reddwerks enhancements rolled out, did those  
2 enhancements replace the thresholds that were  
3 in Reddwerks prior to the enhancements?

4 A. Yes.

5 MS. TABACCHI: Object to the  
6 form.

7 MR. INNES: Sorry. That was  
8 bad.

9 Q. (BY MR. INNES) Another way of  
10 asking that is, did -- the criteria that  
11 Reddwerks applied prior to the enhancements  
12 was not carried over with the enhancements?

13 A. Correct.

14 Q. Okay. I'm going to ask the  
15 same series of questions about McKesson  
16 orders as they relate to suspicious order  
17 evaluations. We just talked about threshold  
18 evaluations.

19 Were the McKesson orders  
20 considered as part of an order of interest  
21 evaluation?

22 MS. TABACCHI: Object to the  
23 form.

24 THE WITNESS: Yes.

25 Q. (BY MR. INNES) And when did --

1       when was that data considered as part of the  
2       order evaluation?

3                       MS. TABACCHI: Object to the  
4       form.

5                       THE WITNESS: I believe it was  
6       the entire time after we had the  
7       Reddwerks enhancements.

8               Q.       (BY MR. INNES) Okay. So prior  
9       to the Reddwerks enhancements, just when  
10      evaluating orders of interest, Walmart did  
11      not consider direct orders to McKesson?

12                      MS. TABACCHI: Object to the  
13      form.

14                      THE WITNESS: I'm not sure  
15      because the evaluation occurred at the  
16      DC.

17               Q.       (BY MR. INNES) So after the  
18      Reddwerks enhancements, what was considered  
19      with respect to orders from other  
20      distributors such as McKesson?

21                      MS. TABACCHI: Object to the  
22      form.

23                      THE WITNESS: We would look at  
24      what that pharmacy was ordering for  
25      that drug from the other distributor.



1 Q. (BY MR. INNES) And were  
2 they -- in looking at a particular pharmacy,  
3 did you take, for instance, Oxy 30s ordered  
4 from Walmart and added them to Oxy 30s  
5 ordered from McKesson? Is that how that  
6 worked?

7 MS. TABACCHI: Object to the  
8 form.

9 THE WITNESS: We would  
10 consider -- we would look at what they  
11 had ordered from McKesson and consider  
12 that as we were evaluating the order.

13 Q. (BY MR. INNES) And would that  
14 be documented in Archer?

15 A. I believe it would have been.

16 MS. TABACCHI: Object to the  
17 form.

18 Q. (BY MR. INNES) As part of an  
19 order of interest of a suspicious order  
20 evaluation, did Walmart consider the  
21 percentage of -- that a particular pharmacy's  
22 business related to controlled substances?

23 MS. TABACCHI: Object to the  
24 form.

25 THE WITNESS: Walmart would

1           consider the percentage of controlled  
2           substances dispensed to non-controlled  
3           substances dispensed in an order of  
4           interest evaluation.

5           Q.       (BY MR. INNES) And where was  
6           that information obtained from?

7           A.       Our dispensing data.

8           Q.       And dispensing data was  
9           available to you through Archer?

10                   MS. TABACCHI: Object to the  
11           form.

12                   THE WITNESS: It was available  
13           through -- we have databases where we  
14           keep it, and it was input into Archer  
15           for ease of access.

16           Q.       (BY MR. INNES) So if you went  
17           into Archer on any particular day and entered  
18           in pharmacy Bentonville, you could see the  
19           percentage of controls to non-controls?

20                   MS. TABACCHI: Object to the  
21           form.

22                   THE WITNESS: Yes. It was not  
23           updated daily. It was typically  
24           updated quarterly.

25                   MR. INNES: Okay.

1 Q. (BY MR. INNES) So when doing  
2 an evaluation, you were considering quarterly  
3 eval?

4 MS. TABACCHI: Object to the  
5 form.

6 THE WITNESS: Yes.

7 Q. (BY MR. INNES) And would you  
8 consider that as part of every evaluation?

9 A. Yes. That was available to --  
10 for review as part of the evaluation.

11 Q. Slightly different question.  
12 You say it was available for review. I want  
13 to know exactly what was reviewed.

14 A. So I would consider it as every  
15 part of my evaluation as -- in every  
16 evaluation. There were others that were  
17 involved in evaluations. I would assume they  
18 would consider it as well because that was an  
19 expectation.

20 Q. And whose expectation was that?

21 A. That was my expectation.

22 Q. And you communicated that  
23 expectation to those folks who were doing  
24 evaluations in your stead?

25 A. Yes.

1 Q. How did you do that?

2 A. Through conversations.

3 Q. Did you ever send a memo to  
4 your team?

5 MS. TABACCHI: Object to the  
6 form.

7 THE WITNESS: I don't remember  
8 sending a memo. We don't do memos  
9 really at Walmart, but I may have sent  
10 an email. I don't remember.

11 Q. (BY MR. INNES) Again, you're  
12 in charge of, during this time period, this  
13 sort of monitoring program as it pertains to  
14 the compliance side and you're doing reviews.  
15 And sometimes there are people other than you  
16 that are doing these reviews; is that right?

17 A. From a compliance perspective?

18 Q. Yeah.

19 A. There were others that were  
20 involved in pulling together the information,  
21 but I was the decision-maker.

22 Q. (BY MR. INNES) Okay. So you  
23 had a -- you evaluated each and every order  
24 of interest?

25 MS. TABACCHI: Object to the

1 form.

2 THE WITNESS: No.

3 Q. (BY MR. INNES) Okay.

4 A. I evaluated orders of interest  
5 that were not already deemed appropriate by  
6 the logistics compliance team.

7 Q. So you're filtered down.  
8 You're dealing with -- it's gone through a  
9 layer of review and you're dealing with a  
10 subset of orders that have been flagged by  
11 Reddwerks?

12 A. Correct.

13 Q. And you looked at each and  
14 every one of those?

15 A. Yes.

16 Q. And as part of your evaluation  
17 of each and every one of those, you  
18 considered what?

19 What data did you consider?

20 MS. TABACCHI: Object to the  
21 form.

22 THE WITNESS: All of the  
23 information from the logistics  
24 compliance that they had gathered.

25 Q. (BY MR. INNES) And what would

1       that be, typically?

2               A.       They would often have  
3       conversations with a pharmacist. They would  
4       know what had been ordered previously.

5               They may have information about  
6       a product that had been out of stock. That  
7       type of information.

8               And then we would pull  
9       additional dispensing data.

10              We also, if we needed  
11      additional clarification, would reach out to  
12      a pharmacist or the market director.

13              Q.       (BY MR. INNES) You said you  
14      would pull dispensing data?

15              A.       Yes.

16              Q.       I thought earlier you said  
17      that -- and this is -- I may have misheard  
18      you -- that it was available to you through  
19      Archer.

20              A.       We had certain things that were  
21      available in Archer.

22              Q.       Okay.

23              A.       But it was not everything that  
24      we would review if we were looking at an  
25      order.

1           Q.       Can you tell me everything that  
2       was available to you in Archer?

3                   MS. TABACCHI: Object to the  
4       form.

5                   THE WITNESS: I will try to  
6       remember.

7                   The controlled substance ratio  
8       to non-controlled substances. The --  
9       I believe it was the overall average  
10      controlled substances dispensed per  
11      week.

12                  And we also had overall data on  
13      how patients typically paid for their  
14      prescription.

15           Q.       (BY MR. INNES) Anything else?

16           A.       Not that I can think of.

17           Q.       These pieces of information  
18      that you just listed, were they at the  
19      pharmacy level or were they at some other  
20      level?

21                   MS. TABACCHI: Object to the  
22      form.

23                   THE WITNESS: They -- the data  
24      was specific to a pharmacy.

25           Q.       (BY MR. INNES) And did you

1 have a way of comparing that pharmacy data to  
2 other pharmacies?

3 A. Not within Archer.

4 Q. Outside of Archer did you have  
5 that ability?

6 A. Possibly.

7 Q. Do you remember ever doing  
8 that?

9 A. I don't remember ever doing  
10 that.

11 Q. As part of your order of  
12 interest evaluation, did you ever look to see  
13 if the script was written by a practitioner  
14 from whom the buyer was not -- or did not  
15 have a pre-existing relationship?

16 MS. TABACCHI: Object to the  
17 form.

18 THE WITNESS: Can you restate  
19 that?

20 MR. INNES: Sure.

21 Q. (BY MR. INNES) So did you --  
22 as part of your suspicious order monitoring  
23 program, did you ever look to see if the  
24 script was filled -- or the script was  
25 written by a practitioner from whom the buyer



1 did not have a pre-existing relationship?

2 MS. TABACCHI: Object to the  
3 form.

4 THE WITNESS: We looked at data  
5 at a high level, not on an individual  
6 prescription level. The individual  
7 evaluation of a prescription was done  
8 by our pharmacist.

9 Q. (BY MR. INNES) Are the  
10 pharmacists part of the suspicious order  
11 monitoring program?

12 MS. TABACCHI: Object to the  
13 form.

14 THE WITNESS: It was not part  
15 of the suspicious order monitoring  
16 program. It was our original policies  
17 and procedures.

18 Q. (BY MR. INNES) What's  
19 Walmart's policy for filling prescriptions  
20 issued by practitioners based solely on an  
21 online evaluation?

22 MS. TABACCHI: Object to the  
23 form.

24 THE WITNESS: It's not allowed.

25 Q. (BY MR. INNES) Is that a

1 written policy?

2 MS. TABACCHI: Object to the  
3 form.

4 THE WITNESS: Yes.

5 Q. (BY MR. INNES) Where would I  
6 find that?

7 A. Which policy?

8 Q. Yeah.

9 A. That would be in what's called  
10 POM 1311.

11 Q. And when did POM 1311 go into  
12 effect?

13 MS. TABACCHI: Object to the  
14 form.

15 THE WITNESS: Prior to me  
16 starting in role. I don't remember  
17 the date.

18 Q. (BY MR. INNES) Did Walmart  
19 ever consider whether the prescribing  
20 practitioner was licensed in the state where  
21 the script was being filled?

22 MS. TABACCHI: Object to the  
23 form. Lack of foundation.

24 THE WITNESS: We had policies  
25 in place for our pharmacist that would

1 include that as part of their  
2 evaluation, of the appropriateness of  
3 a controlled substance description.

4 Q. (BY MR. INNES) And where would  
5 I find that policy?

6 A. So that would also be in  
7 POM 1311. And it may be referenced -- we  
8 have another policy that talks about  
9 confirming appropriate licensure. I can't  
10 think of the number off the top of my head  
11 for that one.

12 Q. When do you think that took  
13 effect?

14 MS. TABACCHI: Object to the  
15 form. Lack of foundation.

16 THE WITNESS: I don't know.  
17 Both of those were in effect whenever  
18 I started in role.

19 Q. (BY MR. INNES) When you  
20 entered the role as controlled -- as director  
21 of controlled substances, did you do any  
22 research as to the history of Walmart's  
23 policies as they relate to C-IIs and C-IIIs?

24 MS. TABACCHI: Object to the  
25 form.

1 THE WITNESS: Not that I  
2 remember.

3 Q. (BY MR. INNES) Did you look at  
4 any policies that -- old -- policies that  
5 were no longer in place?

6 MS. TABACCHI: Object to the  
7 form.

8 THE WITNESS: No. Not that I  
9 remember.

10 Q. (BY MR. INNES) Did you  
11 evaluate the policies that were in place when  
12 you started in the role?

13 MS. TABACCHI: Object to the  
14 form.

15 THE WITNESS: I did look at the  
16 policies that applied to me when I was  
17 in role.

18 Q. (BY MR. INNES) And did you  
19 make any determinations about their  
20 effectiveness?

21 MS. TABACCHI: Object to the  
22 form.

23 THE WITNESS: When I was new to  
24 role, I didn't know what was effective  
25 at the time because I didn't have

1           experience with how it was working,  
2           so ...

3           Q.       (BY MR. INNES) Okay. Did you  
4 look -- look at them with an eye towards  
5 whether or not they complied with the DEA's  
6 regulations?

7                   MS. TABACCHI: Object to the  
8 form. Lack of foundation.

9                   THE WITNESS: I reviewed them  
10 with -- based on what my understanding  
11 of the DEA regulation was. I was not  
12 the only one that would be involved in  
13 review and approval of language and  
14 policy.

15           Q.       (BY MR. INNES) And what was  
16 your understanding -- at the time of that  
17 review, what was your understanding of  
18 those -- the regulations based on?

19                   MS. TABACCHI: Object to the  
20 form.

21                   THE WITNESS: It would have  
22 been --

23                   MS. TABACCHI: I'm going to  
24 also caution the witness not to reveal  
25 the substance of any attorney-client

1 communication.

2 If you can answer without  
3 revealing a communication that you had  
4 with a lawyer, you're free to do that.

5 THE WITNESS: I'm trying to  
6 think if there was anything that  
7 didn't involve communication with a  
8 lawyer.

9 I can't think of anything other  
10 than it was a policy that was in  
11 place, so ...

12 Q. (BY MR. INNES) In your  
13 personal capacity, in your -- you hold a JD;  
14 is that right?

15 A. That's correct.

16 Q. And you've passed the bar; is  
17 that right?

18 A. Correct.

19 Q. And you were a practicing  
20 lawyer at one point; is that right?

21 MS. TABACCHI: Object to the  
22 form.

23 THE WITNESS: Correct.

24 Q. (BY MR. INNES) In your  
25 personal capacity as a lawyer during that

1 time period, did you look at Walmart's  
2 policies to see whether or not they complied  
3 with the DEA regulations as you understood  
4 them at the time?

5 MS. TABACCHI: Object to the  
6 form, lack of foundation.

7 THE WITNESS: When I first  
8 started in role, what I was  
9 responsible for was the suspicious  
10 order monitoring, and so I became  
11 familiar with that policy.

12 Q. (BY MR. INNES) You became  
13 familiar with Walmart's policy?

14 A. Yes.

15 Q. And Walmart's policy, generally  
16 speaking, each of these policies has a  
17 preamble or a purpose that talks about what  
18 DEA regulations require.

19 Did you investigate what those  
20 DEA regulations were?

21 MS. TABACCHI: Object to the  
22 form.

23 THE WITNESS: I did review.

24 Q. (BY MR. INNES) You did?

25 A. Mm-hmm. (Witness nods.)

1 Q. And after you reviewed them,  
2 did you then look at Walmart's policies?

3 MS. TABACCHI: Object to the  
4 form.

5 THE WITNESS: I don't remember  
6 if I reviewed them first and then  
7 looked at the policies or vice versa,  
8 but I did review the regulations  
9 requirements.

10 Q. (BY MR. INNES) And did you  
11 make an analysis, after having looked at both  
12 the regulations and the policies, to make a  
13 determination as to whether or not the  
14 policies were adequate?

15 MS. TABACCHI: Object to the  
16 form. Lack of foundation. Calls for  
17 a legal conclusion.

18 THE WITNESS: My role is  
19 focused on compliance with our  
20 policies.

21 Q. (BY MR. INNES) Your role as --  
22 let's see.

23 So is it your testimony that as  
24 a director of controlled substances, your  
25 role, your job, is limited to whether or not



1 Walmart's policies are carried out?

2 MS. TABACCHI: Object to the  
3 form.

4 THE WITNESS: That is my main  
5 function. I can make recommendations  
6 to make sure policies are clear, but  
7 my role is not interpreting legal  
8 requirements.

9 Q. (BY MR. INNES) Did you ever  
10 make recommendations regarding the clarity of  
11 the policies you were charged with  
12 implementing?

13 A. Yes, I have made  
14 recommendations for revisions of policies.

15 Q. And what were those revisions?  
16 Recommendations?

17 MS. TABACCHI: Object to the  
18 form.

19 THE WITNESS: I don't remember  
20 exactly. Typically rewording language  
21 so a pharmacist could understand it or  
22 changing the order that things were  
23 written.

24 Q. (BY MR. INNES) Do you have  
25 any -- recall any specific examples of

1 policies that you recommended be changed?

2 A. Yes. We -- I made mod --  
3 recommended modifications to many policies.  
4 1311. 1316, which is related to our  
5 prescription monitoring program for our  
6 pharmacists.

7 Those are two that I can think  
8 of off the top of my head.

9 Q. Any recommendations to  
10 evaluating orders of interest and suspicious  
11 order reporting?

12 MS. TABACCHI: Object to the  
13 form.

14 THE WITNESS: Yes. At some  
15 point I've been involved in making  
16 recommendations for modifying the  
17 policy.

18 Q. (BY MR. INNES) Do you recall  
19 when you made recommendations to modify those  
20 policies?

21 A. I -- let's see.

22 The main one I remember is the  
23 June 2017.

24 Q. And you're referring to which  
25 tab in Exhibit 1?

1           A.       I apologize. It's tab No. 6.

2           Q.       So tab No. 6 in Exhibit 1  
3       ending in -- or beginning in Bates No. 969,  
4       that's the document?

5           A.       Yes.

6           Q.       Okay.

7           A.       Yeah.

8           Q.       What changes did you  
9       recommend -- I'm sorry, maybe -- you're  
10       probably better off explaining this.

11                   All right. Are you  
12       recommending changes to this policy or  
13       changes that you recommended and accepted in  
14       this policy?

15                   MS. TABACCHI: Object to the  
16       form.

17                   THE WITNESS: This policy  
18       reflects some changes that I  
19       recommended.

20                   MR. INNES: Okay.

21           Q.       (BY MR. INNES) And this policy  
22       was in effect between June of '17 and  
23       November of '17? Is that correct?

24           A.       That -- possibly. That sounds  
25       accurate.

1           Q.       Okay. And let's look at  
2       what -- can you identify what changes you  
3       made?

4           A.       So this was when we made a  
5       transition to a -- using the QuintilesIMS  
6       suspicious order monitoring application.

7                   And so there are references to  
8       using that system versus Reddwerks for  
9       controlled substances.

10                  And we split out non-controlled  
11       substances and referenced that they would  
12       still be processed through Reddwerks.

13                  We also -- by this time, there  
14       was a vice president of pharmacy logistics  
15       instead of a senior director, and so we  
16       changed that title throughout the policy.

17                  I don't know if there was  
18       anything else. It's hard to tell because  
19       this isn't a redline version, but ...

20           Q.       Do you know if a redline  
21       version exists?

22                  MS. TABACCHI: Object to the  
23       form.

24                  THE WITNESS: I don't know if  
25       it does, because often those are all

1           accepted and -- whenever the final  
2           version is published.

3           Q.       (BY MR. INNES) As a matter of  
4           practice, does Walmart maintain redline  
5           revisions to policies as they're going  
6           through the deliberation process?

7                   MS. TABACCHI: Object to the  
8           form.

9                   THE WITNESS: We do share  
10          redlines as it's going through the  
11          revision process. But as I mentioned,  
12          as people agree to the changes, they  
13          will accept those, so the redlines go  
14          away.

15          Q.       (BY MR. INNES) All right. So  
16          the first change you mentioned was related to  
17          this QuintilesIMS suspicious order  
18          monitoring.

19          A.       Yeah.

20          Q.       Is that another name for  
21          Buzzeo? Or is Buzzeo -- does that --

22          A.       Yes. The company was  
23          originally called Buzzeo. Then it was  
24          purchased by QuintilesIMS.

25          Q.       Okay. Is this the first

1       time -- the first version of this policy  
2       where this QuintilesIMS suspicious order  
3       monitoring application is referenced?

4                   MS. TABACCHI: Object to the  
5       form.

6                   THE WITNESS: Yes.

7           Q.       (BY MR. INNES) So this -- I  
8       think we established that June 2017 is when  
9       this policy went into effect.

10                   So is June 2017 the date that  
11       QuintilesIMS suspicious order monitoring  
12       application was live across all DCs?

13           A.       We did --

14                   MS. TABACCHI: Object to the  
15       form.

16                   THE WITNESS: We did a pilot  
17       around this timeframe.

18           Q.       (BY MR. INNES) Okay.

19           A.       There were some issues with the  
20       system, so we had to take it back out, revert  
21       back to the Reddwerks system that we were  
22       using until we were able to correct those  
23       issues within the QuintilesIMS system.

24           Q.       Okay. Did those issues within  
25       the QuintilesIMS system -- that's a

1 mouthful -- those issues affect the 6045  
2 distribution center?

3 MS. TABACCHI: Object to the  
4 form.

5 THE WITNESS: Can you clarify  
6 what you mean by "affect"?

7 Q. (BY MR. INNES) You testified  
8 that at some point in time you had to revert  
9 back to the Reddwerks system.

10 A. (Witness nods.)

11 Q. Did the 6045 facility revert  
12 back to the Reddwerks?

13 A. Yes. All distribution centers  
14 did.

15 Q. This was a global reversion?

16 A. The QuintilesIMS system was  
17 rolled out to all DCs at once in the pilot  
18 and then removed from all of the DCs.

19 Q. Okay. And how long was it  
20 removed?

21 A. Until November of 2018.

22 Q. Okay.

23 A. I mean 2017. Sorry.

24 Q. Okay. I'm trying to line that  
25 up with the date -- the effective date of

1       this policy. So when -- do you know when the  
2       reversion to Reddwerks occurred?

3               A.       It was sometime in the summer  
4       of 2017. I don't remember exactly when.

5               Q.       Okay. When that reversion  
6       happened sometime in the summer of 2017, what  
7       policy was in effect at that point?

8               A.       I believe this policy was still  
9       in effect. We didn't, that I'm aware of,  
10      pull down this policy and replace it with an  
11      older version.

12              Q.       Was there an understanding  
13      that we'll just -- we'll function under the  
14      prior policy during this reversion period?

15                      MS. TABACCHI: Object to the  
16      form.

17                      THE WITNESS: Yes.

18              Q.       (BY MR. INNES) What were the  
19      issues that required the reversion to  
20      Reddwerks?

21              A.       If I remember correctly -- it  
22      was a technical thing. But there was issues  
23      with the order files making it to the  
24      QuintilesIMS system.

25                      So orders that pharmacies were



1 placing just kind of got lost, and so they  
2 would never get the product.

3 Q. Okay. So it was -- were there  
4 any issues related to -- strike that.

5 Tell me, if you can, what  
6 Buzzeeo is -- or strike that.

7 QuintilesIMS suspicious order  
8 monitoring system is quite a mouthful. Can  
9 we refer to it as "Buzzeeo," or do you want to  
10 refer to it as "QuintilesIMS"?

11 A. I'm okay referring to it as  
12 "Buzzeeo."

13 Q. Can you explain to me what  
14 Buzzeeo is in a broad sense?

15 A. It's an order monitoring system  
16 that includes a statistical algorithm.  
17 Orders are put into the system and then it  
18 will pend to orders that are outside of this  
19 algorithm -- or based on this algorithm.

20 MS. TABACCHI: I'll just  
21 show -- I don't know if you're now  
22 switching to a new topic, but I'm  
23 advised that lunch is here, whenever  
24 you want to take a break for lunch.  
25 Or if you're going to wrap this up in

1 a few minutes, that's fine too. It's  
2 up to you, Mike.

3 MR. INNES: Let me ask -- just  
4 give me 30 seconds. I think I can  
5 close out another chapter.

6 MS. TABACCHI: Great.

7 MR. INNES: We've sort of, as  
8 things go, pulled into another area  
9 that I want to go deeper into.

10 MS. TABACCHI: A few minutes is  
11 fine. If this was going to be an hour  
12 worth of questioning, I just wanted to  
13 let you know.

14 MR. INNES: No, no. Give me  
15 30 seconds to pull something together  
16 here.

17 THE WITNESS: Okay.

18 MS. TABACCHI: Sure.

19 MR. INNES: In the spirit of  
20 efficiency, I'll try to reorder  
21 things.

22 Q. (BY MR. INNES) At any point in  
23 time did Walmart consider whether a  
24 practitioner was writing a disproportionate  
25 share of his or her prescriptions for

1 controlled substances being filled at your  
2 pharmacies?

3 MS. TABACCHI: Object to the  
4 form. Lack of foundation.

5 THE WITNESS: Can you repeat  
6 that?

7 MR. INNES: Sure.

8 Q. (BY MR. INNES) As part of its  
9 order -- suspicious order monitoring program,  
10 did Walmart ever consider if one or more  
11 practitioners was writing a disproportionate  
12 share of the prescriptions for a controlled  
13 substance being filled by the pharmacy?

14 MS. TABACCHI: Same objections.

15 THE WITNESS: During the time  
16 that I was in role and we had the  
17 enhancements to Reddwerks, we did --  
18 we were able to see which  
19 practitioners prescribed the  
20 controlled substances in our  
21 dispensing data.

22 Q. (BY MR. INNES) Okay. Again,  
23 my question is slightly different. So the  
24 data was available to you. Did you consider  
25 that data as part of your evaluation?

1 A. Yes.

2 Q. And was that information found  
3 within Archer?

4 MS. TABACCHI: Object to the  
5 form.

6 THE WITNESS: It was not part  
7 of the preloaded Archer data that we  
8 talked about earlier.

9 MR. INNES: Okay.

10 Q. (BY MR. INNES) So how would  
11 you go about finding that data?

12 A. We would run data on a specific  
13 pharmacy that we were evaluating and the drug  
14 we were evaluating, and it was available in  
15 that data.

16 Q. Who would actually run -- when  
17 you say "run the data," who would do that?

18 A. Roxy Reed.

19 Q. And Roxy would -- would she do  
20 that for all evaluations?

21 MS. TABACCHI: Object to the  
22 form, lack of foundation.

23 THE WITNESS: My understanding  
24 is Roxy would run the data for the  
25 evaluations that practice compliance

1           was evaluating.

2           Q.       (BY MR. INNES)   So Roxy's on  
3   your team?

4           A.       Yes.

5           Q.       So Roxy's reviewing that subset  
6   that's been flagged by Reddwerks and hasn't  
7   been cleared throughout the process and has  
8   landed in your office?

9           A.       Yes.

10          Q.       And was Roxy's practice in each  
11   one of those evaluations to run that  
12   particular data set?

13                 MS. TABACCHI:   Object to the  
14   form.

15                 THE WITNESS:   Yes.

16          Q.       (BY MR. INNES)   And where did  
17   she record the results of that analysis?

18          A.       She made notes in Archer of the  
19   analysis.

20          Q.       Okay.   And is it Roxanne Reed  
21   that we're referring to?

22          A.       Yes.

23          Q.       And who does Ms. Reed report  
24   to?

25          A.       Me.

1 MS. TABACCHI: Object to the  
2 form.

3 Q. (BY MR. INNES) And how long  
4 was she in that role?

5 A. She joined the team I believe  
6 in 2015. And she's still in -- on my team.

7 Q. And she -- and still on your  
8 team and maintain -- and up until Walmart's  
9 exit of the market, she performed that  
10 function for you?

11 MS. TABACCHI: Object to the  
12 form.

13 THE WITNESS: She did. We had  
14 additional team members join in  
15 October and November timeframe of 2017  
16 that also did that function.

17 Q. (BY MR. INNES) Were those --  
18 who were those employees that joined the  
19 team?

20 A. We had a large number of  
21 analysts that joined. I can't sit here and  
22 name everyone's name.

23 Q. So why the -- why the large  
24 increase in analysts?

25 A. When we made the transition to

1       Buzzeo, and in November we brought the entire  
2       evaluation process into the compliance team  
3       instead of having logistics involved in the  
4       first part and then compliance in the second  
5       portion.

6               Q.       Okay.

7                       In terms of staffing, was it a  
8       transition of bodies from logistics to  
9       compliance now?

10                    MS. TABACCHI: Object to the  
11       form.

12                    THE WITNESS: We hired new  
13       associates for the role in compliance.

14               Q.       (BY MR. INNES) Because these  
15       are brand-new, fresh hires?

16                    MS. TABACCHI: Object to the  
17       form.

18                    THE WITNESS: Yes.

19               Q.       (BY MR. INNES) Cycling back,  
20       the data that Roxy pulled that we just  
21       referenced, how is that considered as part of  
22       the evaluation?

23                    MS. TABACCHI: Object to the  
24       form.

25               Q.       (BY MR. INNES) How is that

1       used?

2               A.       It was part of the overall  
3       review of the order itself, and whether or  
4       not it was appropriate.

5               Q.       And again, the determination as  
6       to -- after all that data is collected --  
7       well, strike that.

8                       What other data -- what other  
9       dispensing data did you look at as part of  
10      the evaluation?

11               MS. TABACCHI: Object to the  
12      form.

13               THE WITNESS: I don't know that  
14      there was other dispensing data.  
15      There's just one form of dispensing  
16      data.

17               Q.       (BY MR. INNES) Was any  
18      analysis done on that dispensing data?

19               MS. TABACCHI: Object to the  
20      form.

21               THE WITNESS: Yes, we did  
22      analysis on the dispensing data.

23               Q.       (BY MR. INNES) And what kinds  
24      of analyses were done on the dispensing data?

25               A.       We looked for trends in



1       dispensing.

2                   I mentioned earlier we could  
3       see who the prescribers of the product were.  
4       We could see the distance patients were  
5       traveling and the general quantities of the  
6       prescriptions that were being dispensed.

7           Q.       When you say "we could" -- I'm  
8       sorry, I don't want to cut you off.

9           A.       No.

10          Q.       Is there anything else?

11          A.       That's all I can think of right  
12       now.

13          Q.       When you say "you could see,"  
14       what do you mean by "you could see"?

15          A.       There was basically a -- you  
16       know, charts and graphs created from the  
17       dispensing data.

18          Q.       Okay. And where were those  
19       charts and graphs? Were you looking at them  
20       through Archer?

21          A.       No. They were in Excel.

22          Q.       Any other programs used?

23          A.       Roxy used other programs. She  
24       used a tool called Alteryx.

25                   I don't know what else she

1       used.

2               Q.       Alteryx? How do you -- do you  
3       know how to spell that?

4               A.       I think it is A-L-T-E-R-Y-X.

5               Q.       Are you familiar with Tableau  
6       by any chance?

7               A.       Yes.

8               Q.       Was that program used?

9                       MS. TABACCHI: Object to the  
10       form.

11                      THE WITNESS: I don't believe  
12       we ever used Tableau for this.

13               Q.       (BY MR. INNES) Did you use  
14       Tableau for other things?

15                      MS. TABACCHI: Object to the  
16       form.

17                      THE WITNESS: Our compliance  
18       organization broadly uses Tableau for  
19       things, but ...

20               Q.       (BY MR. INNES) Did you ever  
21       see an analysis of -- or Tableau used in the  
22       context of C-IIs or C-IIIs?

23                      MS. TABACCHI: Object to the  
24       form.

25                      THE WITNESS: Not that I

1           remember.

2           Q.       (BY MR. INNES) How would you  
3 know if you saw something in Tableau?

4           A.       Can you ask that question  
5 again?

6           Q.       When I look at Excel, I see  
7 Excel, I know it's Excel.

8                   Is that the same for you?

9                   You can open up a computer  
10 screen. You would recognize an Excel file as  
11 an Excel file?

12          A.       Yes.

13          Q.       Okay. Do you have that same  
14 level of familiarity with Tableau?

15          A.       I mean, I've seen things in  
16 Tableau, yes.

17          Q.       Right.

18          A.       I don't know if there's other  
19 forms Tableau could take that I wouldn't  
20 recognize, but ...

21          Q.       What -- you mentioned earlier  
22 that you were looking at trends. What trends  
23 specifically were you looking at?

24          A.       The dispensing trend.

25          Q.       Okay. And again, I'm sorry.

1       What time period are you -- are we dealing  
2       with right now?

3               A.       This is from the time of the  
4       Reddwerks enhancements until -- we're talking  
5       about Roxy pulling the data?

6               Q.       Yeah.

7               A.       Is that what we're talking  
8       about?

9               Q.       That's right.

10              A.       Until November -- the November  
11       timeframe. And then as I mentioned, we had  
12       additional analysts that assisted with it as  
13       well.

14              Q.       Okay.

15                      So can we -- I'm trying to make  
16       this as clean as possible. Can we talk about  
17       the Roxy era? When she's doing it, and then  
18       we talked about the Buzzeo era?

19              A.       Yeah, we can.

20              Q.       Okay. So --

21                      MS. TABACCHI: I'm sorry, are  
22       we defining this, what is the "Roxy  
23       era"?

24                      MR. INNES: Yeah, we're  
25       defining the Roxy era.

1 Q. (BY MR. INNES) So in the Roxy  
2 era, you're looking at dispensing trends.  
3 And what are those dispensing trends in  
4 particular?

5 MS. TABACCHI: Object to the  
6 form.

7 THE WITNESS: Overall  
8 dispensing, what is our pharmacy  
9 dispensing for this product? And what  
10 does the trend line look like?

11 Q. (BY MR. INNES) On a  
12 pharmacy-by-pharmacy basis?

13 A. For the specific pharmacy that  
14 was the subject of the order evaluation.

15 Q. Did you ever look at that sort  
16 of data on a more aggregated scale? For  
17 instance, pharmacies in a region?

18 MS. TABACCHI: Object to the  
19 form.

20 THE WITNESS: I don't remember  
21 if we looked at that specific data.  
22 We did occasionally pull overall  
23 reports, but I don't remember if it  
24 was trends specifically.

25 Q. (BY MR. INNES) I guess other

1       than the trends you just described, anything  
2       else in terms of trend analysis?

3               A.       In the order evaluations. No,  
4       that's what we were looking at is what  
5       does -- what does their dispensing of this  
6       product in question look like?

7               Q.       Okay.

8                       How were you able to determine  
9       the distance traveled?

10              A.       We know the location of our  
11       pharmacy, and we would use the address of the  
12       patients based on how it was in our system.  
13       So, you know, there are circumstances where  
14       people don't update their address, but we  
15       could get a general idea.

16              Q.       Did you ever seek to verify  
17       addresses provided?

18                      MS. TABACCHI: Object to the  
19       form.

20                      THE WITNESS: That would have  
21       been the responsibility of our  
22       pharmacist.

23              Q.       (BY MR. INNES) So the -- who  
24       maintains the dispensing data?

25                      MS. TABACCHI: Object to the

1 form.

2 THE WITNESS: I don't know who  
3 maintains the dispensing data.

4 Q. (BY MR. INNES) Is that at the  
5 home office level?

6 MS. TABACCHI: Object to the  
7 form. Lack of foundation.

8 THE WITNESS: There is  
9 dispensing data available to home  
10 office-level associates.

11 Q. (BY MR. INNES) Is the  
12 dispensing data -- is historical dispensing  
13 data maintained at Walmart?

14 MS. TABACCHI: Object to the  
15 form, lack of foundation.

16 THE WITNESS: I believe so. I  
17 don't know how far back it goes.

18 MR. INNES: I think we can take  
19 a break now.

20 THE WITNESS: Okay.

21 VIDEOGRAPHER: We are going off  
22 the record at 12:08 p.m.

23 (Recess taken, 12:08 p.m. to  
24 1:04 p.m.)

25 VIDEOGRAPHER: We are back on

1 the record at 1:04 p.m.

2 MR. INNES: Okay. Welcome  
3 back.

4 THE WITNESS: Thank you.

5 (Walmart Johnson Deposition  
6 Exhibit 2 was marked for  
7 identification.

8 Q. (BY MR. INNES) Okay.

9 Ms. Johnson, once you've had a chance to  
10 review it, let me know and we can start.

11 A. Okay.

12 [Document review.]

13 Okay.

14 Q. (BY MR. INNES) Okay. Do you  
15 recognize this document?

16 A. Yes, I do.

17 Q. And can you tell me what it is  
18 exactly?

19 A. It's a performance evaluation.

20 Q. And who fills out the  
21 performance evaluation?

22 MS. TABACCHI: Object to the  
23 form.

24 THE WITNESS: There are  
25 portions of the evaluation that are



1           done by the associate being evaluated,  
2           so in this case me, and then there are  
3           portions completed by the supervisor.

4           Q.       (BY MR. INNES) And who is your  
5           supervisor during this time period?

6           A.       Tim Koch.

7           Q.       We were wondering how to  
8           pronounce his name.

9                   And this covers the time  
10          period, physically, here, February 1st, 2014,  
11          end date of January 31st, 2015; is that  
12          correct?

13          A.       That's correct.

14          Q.       Direct your attention to the  
15          second page of the exhibit, which is Walmart  
16          Bates stamp 55407.

17                   In the manager's comments,

■       ██  
■       ██  
■       ██  
■       ██

22                   Do you know what stalled  
23          project he's referring to?

24                   MS. TABACCHI: Object to the  
25          form.

1 THE WITNESS: I don't know  
2 exactly, because he doesn't represent  
3 the specific sentence. But I believe  
4 it's SOM.

5 Q. (BY MR. INNES) Let me direct  
6 your attention to the second column, the  
7 associate's comments. Are those comments  
8 that would have been made by you?

9 A. Yes.

10 Q. And you state, "Engaged  
11 appropriate stakeholders to move forward  
12 stalled systems projects. The project is now  
13 on track to pilot prior to end of FYE 2015."

14 What project -- what "stalled  
15 systems project" are you referring to?

16 A. I believe I was referring to  
17 the Reddwerks enhancements.

18 Q. Okay. And was it your  
19 understanding at that time that the project,  
20 the Reddwerks enhancements were now on track  
21 to pilot prior to the end of the fiscal year  
22 '15?

23 A. Yes.

24 Q. You go on to say you "developed  
25 strategy for a much more comprehensive

1 program than was initially developed."

2 What program are you referring  
3 to there?

4 A. I believe it's related to the  
5 SOM project since it's under that section.

6 Q. Okay. "And Phase 1 is on  
7 track, and progress has already been made  
8 towards several Phase 2 goals scheduled for  
9 next fiscal year."

10 What are you referring to there  
11 as Phase 1?

12 A. I believe, if I remember  
13 correctly, Phase 1 were the Reddwerks system  
14 enhancements.

15 Q. And Phase 2, what is that?

16 A. I don't remember exactly what  
17 was included in Phase 2.

18 I don't remember what was in  
19 Phase 2.

20 Q. May it have included the  
21 addition of what we've been referring to as  
22 Buzzeeo? Is that --

23 A. Possibly.

24 Q. Okay. Can we turn the page to  
25 55408. And I'll direct your attention to

1       your comments under "Judgment."

2                       And specifically, the line  
3       about halfway through that first full  
4       paragraph. "The SOM program was not as  
5       mature or robust as it needed to be when I  
6       came over."

7                       Is the SOM program you're  
8       referring to the Reddwerks system that was in  
9       place at the time that you came over?

10              A.       I was -- I believe I was  
11       referring to the enhancements that were  
12       planned.

13              Q.       So "The SOM program was not as  
14       mature or robust as it needed to be when I  
15       came over."

16                       What program was not as mature?

17                       MS. TABACCHI: Object to the  
18       form, asked and answered.

19                       THE WITNESS: I believe it was  
20       the planned enhancements for the  
21       program.

22              Q.       (BY MR. INNES) So the planned  
23       enhancements were not as robust?

24                       MS. TABACCHI: Object to the  
25       form.

1 THE WITNESS: That's what I  
2 remember, yes.

3 Q. (BY MR. INNES) Or the planned  
4 enhancements were to make an existing program  
5 more robust?

6 MS. TABACCHI: Object to the  
7 form.

8 THE WITNESS: I'm not sure I  
9 understand that question.

10 Q. (BY MR. INNES) Let me take  
11 your attention to the comment on the left for  
12 manager's comments.

■ [REDACTED]  
 ■ [REDACTED]  
 ■ [REDACTED]

16 Is that the same SOM project as  
17 the Reddwerks project?

18                   A.       Yes. I believe so.

25           A.       I had experience in working

1 with systems projects and how to work with  
2 our systems group to move projects forward  
3 and the processes you had to go through. And  
4 so I was able to come in and leverage those  
5 relationships and that experience that I had  
6 to ensure that the enhancements were moving  
7 forward as quickly as they could.

8 Q. Okay. And the experience that  
9 you just referenced, where was that gained?

10 A. In my role as director of  
11 systems and reporting, which was immediately  
12 prior to the role I'm currently in.

13 Q. So you were able to leverage  
14 your relationships from your prior role and  
15 your experience in your prior role to get  
16 this stalled project back on track? Is that  
17 essentially what we're talking about here?

18 MS. TABACCHI: Object to the  
19 form.

20 THE WITNESS: I was able to  
21 move it through the process that it  
22 had to go through from an IT  
23 perspective.

24 MR. INNES: Okay.

25 Q. (BY MR. INNES) The bottom of

1       that same column it says "Presenting DEA at a  
2       recent closure of investigation."

3                       Do you recall that  
4       presentation?

5                       MS. TABACCHI: Object to the  
6       form.

7                       THE WITNESS: I believe this  
8       was at an exit conference for an audit  
9       of a distribution center.

10              Q.       (BY MR. INNES) Do you recall  
11       which distribution center?

12              A.       I believe it's the one in  
13       Crawfordsville, Indiana.

14              Q.       Is that the 6045?

15              A.       No. 6028, I think is the  
16       number.

17              Q.       Okay.

18                      And what exactly was the audit  
19       concerning?

20                      MS. TABACCHI: Object to the  
21       form. Lack of foundation.

22                      THE WITNESS: I was not  
23       involved in the audit itself. My  
24       understanding is the DEA audits  
25       facilities on a regular basis. My

1           role was helping them understand  
2           suspicious order monitoring and our  
3           enhancements that we were working on.

4           Q.       (BY MR. INNES) During this  
5           presentation to the DEA?

6           A.       Yes.

7           Q.       Okay. And do you re -- did you  
8           make a PowerPoint presentation at that  
9           meeting?

10          A.       I don't remember having a  
11          PowerPoint presentation.

12          Q.       Okay.

13          A.       I believe it was just a  
14          conversation.

15          Q.       A conversation?

16          A.       Yeah. I don't remember any  
17          kind of actual presentation.

18          Q.       What was the impetus for that  
19          conversation?

20                   MS. TABACCHI: Object to the  
21          form.

22                   THE WITNESS: It's the closing  
23          audit for the conference.

24          Q.       (BY MR. INNES) And did the --  
25          how did the suspicious order monitoring



1 program relate to 6028?

2 MS. TABACCHI: Object to the  
3 form.

4 THE WITNESS: My understanding  
5 is when DEA conducts audits of  
6 distribution centers, that is one of  
7 the things that they review, the order  
8 monitoring program.

9 Q. (BY MR. INNES) And at the  
10 time, 6028, were they Schedule IIs or  
11 Schedule IIIs distributed by that facility?

12 MS. TABACCHI: Object to the  
13 form.

14 THE WITNESS: 6028 would have  
15 distributed Schedule IIIs.

16 Q. (BY MR. INNES) That would have  
17 been hydrocodone?

18 A. I -- the timeframe would be  
19 really -- I can't remember exactly when the  
20 audit occurred, but hydrocodone switched to a  
21 Schedule II in 2014. So I believe this was  
22 after the change to a Schedule II.

23 Q. Do you recall what time period  
24 the audit covered?

25 MS. TABACCHI: Object to the

1 form.

2 THE WITNESS: I was not  
3 involved in the audit itself. It was  
4 just the closing conference.

5 Q. (BY MR. INNES) The closing  
6 conference?

7 A. Yeah.

8 Q. Is there any document that  
9 Walmart submits as part of that closing  
10 conference?

11 THE WITNESS: Not that I'm  
12 aware of.

13 Q. (BY MR. INNES) Were you asked  
14 to provide any written comments in connection  
15 with the investigation?

16 MS. TABACCHI: Object to the  
17 form, lack of foundation.

18 THE WITNESS: Can you clarify  
19 that question?

20 MR. INNES: Sure.

21 Q. (BY MR. INNES) You testified  
22 that as part of the closure of the audit --

23 A. Mm-hmm.

24 Q. -- you presented to the DEA?

25 A. Mm-hmm. (Witness nods.)

1           Q.       As part of that presentation,  
2       did you submit any written documentation?

3           A.       After the fact, I did a  
4       follow-up -- I can't remember if it was a  
5       letter or an email -- just recapping what we  
6       had discussed about our enhancements -- our  
7       upcoming enhancements to our monitoring  
8       program.

9           Q.       And what -- do you recall what  
10      that summary was? What those enhancements  
11      were?

12          A.       It was the items we discussed  
13      earlier. So it was the adjustments to the  
14      thresholds.

15                   I can't remember exactly what  
16      all we included in there. Be it, you know,  
17      additional time for the evaluation.

18                   I can't remember what all was  
19      in the actual letter, but ...

20          Q.       So we discussed before -- and  
21      correct me if I'm wrong -- that the  
22      adjustments to the thresholds, more time, I  
23      think it's --

24          A.       And home office review.

25          Q.       And home office review. And

1       the evaluations were conducted by home  
2       office?

3                   MS. TABACCHI: Object to the  
4       form.

5                   THE WITNESS: Yes, I believe I  
6       would have referenced in that letter  
7       that the evaluations were conducted at  
8       the home office.

9       Q.       (BY MR. INNES) Okay.

10       A.       Or would be in our  
11      enhancements.

12       Q.       And there are no other  
13      enhancements in that letter that you  
14      recall --

15                   MS. TABACCHI: Object to the  
16      form.

17                   THE WITNESS: Not that I  
18      recall.

19       Q.       (BY MR. INNES) In fact, those  
20      were the only three enhancements to the  
21      Reddwerks system that you're aware of?

22                   MS. TABACCHI: Object to the  
23      form.

24                   THE WITNESS: That I remember,  
25      yes.

1 Q. (BY MR. INNES) So was the  
2 stall to getting the -- was the stall  
3 referring to finalizing the enhancements?

4 MS. TABACCHI: Object to the  
5 form.

6 THE WITNESS: I'm not sure what  
7 you mean by "finalizing the  
8 enhancements."

9 Q. (BY MR. INNES) Was there --  
10 was the project stalled in terms of  
11 implementing the enhancements to the  
12 Reddwerks system?

13 MS. TABACCHI: Object to the  
14 form.

15 THE WITNESS: Where I assisted  
16 was the systems portion of the project  
17 which made adjustments to the  
18 Reddwerks system to allow us to --  
19 allowed for the enhancements.

20 I don't know if that made  
21 sense.

22 Q. (BY MR. INNES) I'm going to  
23 hand you what is being marked as  
24 plaintiffs' 3.

25 (Walmart Johnson Deposition

1           Exhibit 3 was marked for  
2           identification.)

3                       [Document review.]

4           A.       Okay.

5           Q.       (BY MR. INNES) Okay. So this  
6           is -- appears to be -- well, it's an email  
7           chain. The first email in reverse  
8           chronological order, you forwarded this to --  
9           or sent this to Casey Campbell. Who is  
10          Ms. Campbell?

11          A.       Casey is a director on our  
12          compliance team. His team is responsible for  
13          helping support systems initiatives, risk  
14          assessments, that type of thing.

15          Q.       Okay. And the subject is "SOM  
16          ISD request form." What does that mean?

17          A.       This was a request for an ISD  
18          project. "ISD" stands for information  
19          systems division. It's our IT department.

20          Q.       Okay. Thank you.

21                       And what project does this  
22          request relate to?

23          A.       It appears that this is for the  
24          Reddwerks enhancements.

25          Q.       Okay. So does -- there's a

1 couple of attachments to the email.

2 MR. INNES: Counsel, it appears  
3 natively we put a slip sheet in and  
4 this is the native document that we've  
5 attached behind it.

6 Q. (BY MR. INNES) So can I direct  
7 your attention to the document behind Bates  
8 stamp 48100? It's the first attachment.

9 A. Okay.

10 Q. Yeah, it's the next page.

11 A. Okay.

12 Q. So the goal -- it states, "The  
13 goal of this project is modify the existing  
14 Reddwerks logic to implement calculated store  
15 item combination order thresholds. Any order  
16 above the new threshold will generate an  
17 order alert. The project also includes the  
18 creation of historical order information  
19 retention reporting. This initiative will  
20 allow program enhancements to help Walmart  
21 avoid DEA enforcement as a result of  
22 non-compliance with 21 CFR 1301.74(b)."

23 Is that a description of the  
24 Reddwerks -- the enhancements that the  
25 Reddwerks -- the problem that the Reddwerks

1       enhancements is meant to resolve?

2                   MS. TABACCHI: Object to the  
3                   form.

4                   THE WITNESS: Can you ask that  
5                   question again?

6                   Q.       (BY MR. INNES) Earlier you  
7                   testified you thought that this was a  
8                   document, an ISD request related to the  
9                   Reddwerks enhancements.

10                  A.       Correct.

11                  Q.       Is this document, Exhibit 1 --  
12                  or Attachment 1 to the exhibit, consistent  
13                  with that understanding?

14                  MS. TABACCHI: Object to the  
15                  form.

16                  THE WITNESS: Yes. I believe  
17                  this was part of our request for  
18                  Reddwerks enhancements, yes.

19                  Q.       (BY MR. INNES) The second box  
20                  down on the left says, "The goal of this  
21                  project is design and operate a system to  
22                  identify 'Suspicious Orders' of controlled  
23                  substances. All suspicious orders must be  
24                  reported to the DEA upon detection. A  
25                  'Suspicious Order' could include an order of



1 unusual quantity, orders which substantially  
2 deviate from a normal pattern and orders of  
3 unusual frequency."

4 Do you agree with those  
5 statements?

6 MS. TABACCHI: Object to the  
7 form.

8 THE WITNESS: Are you asking if  
9 I agree with the goal of the project?

10 MR. INNES: Yes.

11 THE WITNESS: Yes.

12 Q. (BY MR. INNES) And in fact if  
13 you did not do this -- if Walmart did not  
14 implement this plan, the risks included  
15 potential DEA enforcement which can include  
16 fines, penalties, license forfeiture, as well  
17 as failure to secure a VAWD accreditation; is  
18 that right?

19 MS. TABACCHI: Object to the  
20 form.

21 THE WITNESS: I don't  
22 necessarily agree that not doing this  
23 project specifically would result in  
24 those issues.

25 Q. (BY MR. INNES) What was the

1 purpose behind the enhancements?

2 A. We are always trying to improve  
3 our processes, and so this was an enhancement  
4 to continue to improve our program and our  
5 process.

6 Q. And is -- the only reason is  
7 because you are continually improving? Is  
8 that what you're saying?

9 MS. TABACCHI: Object to the  
10 form.

11 THE WITNESS: I mean, we are  
12 always evaluating our compliance  
13 programs and making enhancements where  
14 we can.

15 Q. (BY MR. INNES) And what's the  
16 purpose of an enhancement?

17 MS. TABACCHI: Object to the  
18 form.

19 THE WITNESS: To improve  
20 something with the program, either  
21 build in an easier program to execute,  
22 or to modify it in some way.

23 Q. (BY MR. INNES) Direct your  
24 attention to the second attachment, which is  
25 48101.

1                   The top of this document is  
2           called "Portfolio Scoring Sheet."

3                   On the left-hand column there  
4           is a series of -- they appear to be questions  
5           and values assigned to the -- numerical  
6           values assigned to the responses to those  
7           questions. And on the right-hand side is the  
8           numerical response which appears to generate  
9           a score. Is that accurate?

10           A.       Yes. It looks accurate.

11                   MS. TABACCHI: It's a minor --  
12           you say you printed these from a  
13           booklet, but they look like they're  
14           punched. So I assume you're not  
15           suggesting -- these must be copies of  
16           something you --

17                   MR. INNES: They very well --

18                   MS. TABACCHI: -- punched holes  
19           in?

20                   MR. INNES: It was a print of a  
21           native that was copied and punched.

22                   MS. TABACCHI: So the holes  
23           were not in the original native form?

24                   MR. INNES: No, those were not  
25           in the original native version.

1 MS. TABACCHI: All right.

2 Yeah, your version has holes.

3 Okay. I see where we're at.

4 That's fine.

5 MR. INNES: We can take a break  
6 and get the original document.

7 MS. TABACCHI: It's not a  
8 problem. I just wanted it to be clear  
9 that the original native is -- is not  
10 exactly in this format. Some of the  
11 text is missing.

12 MR. INNES: Okay.

13 Q. (BY MR. INNES) The first  
14 section is "Improve program effectiveness."

15 Let me back up. Do you know  
16 who completed this form?

17 A. I don't remember.

18 Q. But you reviewed this form  
19 prior to forwarding it, did you not?

20 MS. TABACCHI: Object to the  
21 form.

22 THE WITNESS: I don't remember  
23 specifically reviewing it, but I -- I  
24 think that I did.

25 Q. (BY MR. INNES) Okay. I'll

1 have you flip back to the second page of this  
2 exhibit. At the bottom there is an email  
3 from you, Miranda Johnson, dated Tuesday,  
4 June 10, 2014 at 4:23 p.m. to Mr. George  
5 Chapman. Who is Mr. Chapman?

6 A. He's in the practice compliance  
7 division.

8 Q. And do you report to him?

9 A. At this time I did not.

10 Q. Did he report to you?

11 A. No.

12 Q. Is the practice compliance  
13 division a separate unit at Walmart from the  
14 unit you worked in at the time?

15 MS. TABACCHI: Object to the  
16 form.

17 THE WITNESS: Yes. I was not  
18 technically in practice compliance at  
19 this time.

20 Q. (BY MR. INNES) Okay. And you  
21 made -- it says here you made the changes  
22 that you discussed with George?

23 Is that correct?

24 A. Yes, that's what it says.

25 Q. And do you recall what changes

1       those were?

2               A.       I do not.

3               Q.       You go on to state, "Once I  
4       receive approvals from you and Jim, I'll  
5       forward this to Kelly for sizing."

6                       Who is "Jim" you're referring  
7       to?

8               A.       Jim was the vice president of  
9       health and wellness compliance.

10              Q.       What was Jim's last name?

11              A.       Langman.

12              Q.       L-A-N-G-M-A-N?

13              A.       Yes.

14              Q.       You go on to say, "I spoke with  
15       Rick, and we are working to move forward with  
16       funding the Reddwerks portion 130K through  
17       state compliance."

18                      Who is Rick?

19              A.       Rick was another senior  
20       director on the practice compliance team.

21              Q.       And what's Rick's last name?

22              A.       Irby.

23              Q.       So is it a fair statement that  
24       you've reviewed -- at this point in time  
25       you'd reviewed it, you've made certain

1 changes, and you're seeking approval from  
2 others to move the process forward?

3 A. Yes.

4 Q. Let me take you to -- back to  
5 48101.

6 It's the first page of this  
7 chart.

8 So is the purpose of this  
9 chart -- what is the purpose of this chart?

10 MS. TABACCHI: Object to the  
11 form.

12 THE WITNESS: Based on my  
13 memory, there was a process where,  
14 when you requested a systems project,  
15 you outlined the need for the project  
16 as part of a prioritization of systems  
17 initiatives.

18 MR. INNES: Okay.

19 Q. (BY MR. INNES) And this  
20 project relates to the suspicious order  
21 monitoring of Schedule II and Schedule IIIs?

22 MS. TABACCHI: Object to the  
23 form.

24 THE WITNESS: I believe this  
25 would have related to our suspicious

1           order monitoring program for  
2           controlled substances.

3           Q.       (BY MR. INNES) So in the first  
4 row, it says, "Improves governance program  
5 maturity," and it offers a response of 'yes'  
6 or 'no.'

7                   If yes, it's a 3. And I see  
8 the score marked in that column is a 3; is  
9 that right?

10          A.       Yes. It says 3.

11          Q.       The next column says "Improves  
12 our business processes for governance."

13                   Again, a 3, which means yes?

14          A.       (Witness nods.)

15          Q.       "Improves our information usage  
16 for governance."

17                   Again, a 3, which means yes.

18          A.       (Witness nods.)

19          Q.       Continuing down the page to the  
20 section called "Risk reduction," the first  
21 attachment describes risks including  
22 potential DEA enforcement which includes  
23 fines, penalties, license forfeiture and  
24 failure to secure VAW [sic] accreditation.

25                   MS. TABACCHI: Michael, I'm



1           sorry, but I'm not sure where you're  
2           reading from or what page you have or  
3           whether --

4                   MR. INNES: Fair enough.

5                   MS. TABACCHI: I'm just not  
6           quite sure about this exhibit as a  
7           whole.

8                   MR. INNES: It's a document  
9           that you all produced. It's got three  
10          attachments or four attachments. They  
11          all work in concert. It's going to  
12          take some time flipping back and  
13          forth.

14                  MS. TABACCHI: I just want to  
15          make sure we have a clear record about  
16          what you're looking at.

17                  MR. INNES: Sure. Absolutely.  
18          I'm not able to put page numbers on  
19          these. Obviously it's printed from  
20          native. I can't put page numbers on  
21          it. But I'll do my best to describe  
22          for the record what we're doing now.

23                  MS. TABACCHI: So what page are  
24          you on now? Maybe you can just show  
25          me.

1 MR. INNES: This is the  
2 first -- what I believe is the first  
3 attachment. It's 48100. 48100.

4 Do you want to do that? Do you  
5 want to number it now and then  
6 reference it as the exhibit? Does  
7 that make it easier for you?

8 MS. TABACCHI: It might just  
9 make it easier because it's hard to  
10 know what -- when you talk about this  
11 chart, it's just hard to know what  
12 you're looking at.

13 MR. INNES: Understood.

14 What's the fastest way to do  
15 it? Do you want to --

16 I can take a clean copy, mark  
17 it, copy it, or we can just --

18 MS. TABACCHI: Just add like an  
19 "A" or a "B."

20 MR. INNES: I'm saying we do 1  
21 through whatever it is.

22 MR. ECKLUND: Start from after  
23 native and then put a number on the  
24 bottom corner. And then everyone will  
25 be using the same page after that. So

1 start the page number after the native  
2 insert.

3 So after the native and then 1.

4 MS. TABACCHI: 48100, and then  
5 the next page is --

6 MR. INNES: Correct.

7 MS. TABACCHI: So 1. The next  
8 page is another native, so this is  
9 101, and then the next page is 2?

10 MR. ECKLUND: Whatever works  
11 for everybody.

12 MR. INNES: Can I make a  
13 suggestion?

14 MS. TABACCHI: Yes, sir.

15 MR. INNES: Can we 101-1,  
16 101-1, 101 and so on and so forth?

17 MS. TABACCHI: Sure.

18 MR. INNES: That way we don't  
19 lose the attachments; right?

20 THE WITNESS: So we're saying  
21 100-1.

22 MS. TABACCHI: So 100-1 is the  
23 first one.

24 MR. INNES: Correct.

25 MS. TABACCHI: And then the

1 next one is 101-1. Is that what --

2 MR. INNES: Correct. Yeah.

3 Arts and crafts.

4 101-3; right?

5 So now we're at 101-4?

6 MS. TABACCHI: Do you mind if

7 Scott says something on the record

8 here? And clarify the issue?

9 MR. ELMER: While we're

10 clarifying things. The first two

11 native attachments are attached to the

12 email that's ending in 098. The first

13 email?

14 MR. INNES: Yeah.

15 MR. ELMER: But the subsequent

16 attachments ending 104 through 107

17 were attached to an email that is not

18 included in this set.

19 So I just want to be clear --

20 MS. TABACCHI: They're not

21 actually attachments to this email.

22 MR. INNES: So I think as

23 the -- I think what we tried to do is

24 the way that the email was produced to

25 us, was to say that this is all the

1 same chain. I'm using attachments  
2 that are part of this chain.

3 MR. ELMER: But I would just  
4 note that the email to which the  
5 exhibits ending in 1 -- or the  
6 documents ending in 104 through 107,  
7 it's a different date. It's a  
8 different email. I don't think it's  
9 clear or accurate to those documents,  
10 as attachments to the document ending  
11 1098. Because they're not.

12 MS. TABACCHI: They are not  
13 attachments to this email. So when  
14 the email is referring to it as an  
15 attachment, it's ...

16 MR. INNES: Do you want to go  
17 off the record?

18 MS. TABACCHI: We can continue  
19 numbering them, but --

20 We can if you'd like.

21 MR. INNES: I just need to sort  
22 this out for myself.

23 MS. TABACCHI: Sure.

24 Understood. Happy to get it sorted  
25 out.

1 VIDEOPHOTOGRAPHER: Do you want to  
2 go off?

3 MR. INNES: Yes.

4 VIDEOPHOTOGRAPHER: We're going off  
5 the record at 1:42 p.m.

6 (Recess taken, 1:42 p.m. to  
7 1:51 p.m.)

8 VIDEOPHOTOGRAPHER: We are back on  
9 the record at 1:51 p.m.

10 Q. (BY MR. INNES) Okay. So we're  
11 back. We took a little break to sort out an  
12 issue with plaintiffs' Exhibit 2.

13 MS. TABACCHI: 3.

14 MR. INNES: 3, rather. Off to  
15 a really galloping start here.

16 Q. (BY MR. INNES) Plaintiffs'  
17 Exhibit 3. Mr. Elmer pointed out that  
18 this -- the attachments that were included in  
19 the original composite exhibit were, for lack  
20 of a better term, incorrect. So we've now  
21 corrected that. We've removed the last few  
22 pages from the composite exhibit. So it will  
23 run now from 48098 through the native  
24 attachment ending in 48104.

25 We've also, for purposes of --

1 no, that's wrong.

2 MS. TABACCHI: So it's an email  
3 that is 48098 --

4 MR. INNES: Yes.

5 MS. TABACCHI: -- that runs to  
6 48099 with a native attachment, Bates  
7 numbered 48100 that has been printed  
8 but not numbered, although the parties  
9 have numbered it 100-1. And then  
10 there is another native attachment  
11 Bates numbered 48101 that the parties  
12 have numbered 101-2, 101-2, 101-3, and  
13 that's the sum and substance of this  
14 exhibit. So the prior questions about  
15 the attached charts refer to these  
16 numbered pages is that --

17 MR. INNES: That's much better  
18 than I would have articulated it.  
19 Thank you, Tina.

20 MS. TABACCHI: Is that where we  
21 are? Okay.

22 MR. INNES: I will ask you to  
23 turn to what we have marked 100-1.

24 Q. (BY MR. INNES) And halfway  
25 down in, it says, "Risk reduction existing or

1 emerging. Is this a new or emerging risk?"

2 I'd ask you to turn back to  
3 what we have marked as 100-1. And the risk  
4 that has an indirect -- I'm sorry, and direct  
5 you to the cell on the right-hand side of the  
6 page for -- it says "Risk of not doing  
7 project and dependencies."

8 That states, "Risks include  
9 potential DEA enforcement which include  
10 fines, penalties, license forfeiture as well  
11 as failure to acquire VAWD accreditation."

12 Is that correct?

13 A. That is what's listed on this  
14 document.

15 Q. And for the risk reduction --  
16 let me ask you this: Is it your  
17 understanding that the 100-1 and 101-1 are a  
18 pair, for lack of a better word?

19 MS. TABACCHI: Object to the  
20 form.

21 THE WITNESS: I don't remember  
22 if they were used for the same purpose  
23 or by the same group.

24 Q. (BY MR. INNES) Okay. So  
25 for -- how is a typical ISD request made?



1           A.       That's changed many times.

2           Q.       Well, let me focus your  
3       attention.

4                   In July of 2014, how was an ISD  
5       application made?

6           A.       Based on my memory, you had to  
7       request a project and you had to go through a  
8       process for explaining why you needed the  
9       project so it could be prioritized.

10          Q.       And as part of that process for  
11       explaining, was it typical to fill out a form  
12       as we see in 100-1?

13          A.       I believe so.

14          Q.       And was it also typical during  
15       the process to fill out a form that we see  
16       here at 101-1?

17          A.       I believe so. This wasn't  
18       created just for this project.

19          Q.       Is it your understanding that  
20       the risk reduction referred to in 101-1 are  
21       the same risks that are described in 100-1?

22                   MS. TABACCHI: Object to the  
23       form. Lack of foundation.

24                   THE WITNESS: I don't believe  
25       the term "risk" in 101-1 directly is

1           related to the use of the term "risk"  
2           in 100-1.

3           Q.       (BY MR. INNES) What do you  
4 believe the risk would refer to on 101-1?

5                   MS. TABACCHI: Object to the  
6 form.

7                   THE WITNESS: Based on my  
8 memory, the risk in 100-1 would be  
9 related more broadly to a compliance  
10 obligation.

11           Q.       (BY MR. INNES) Okay. And  
12 compliance, what compliance obligation would  
13 that be?

14           A.       This would be order monitoring.

15           Q.       So is it the risk of failure to  
16 comply with a compliance obligation?

17                   MS. TABACCHI: Object to the  
18 form.

19                   THE WITNESS: Can you ask that  
20 again?

21           Q.       (BY MR. INNES) The risk being  
22 reduced is the failure to comply with a  
23 compliance obligation?

24                   MS. TABACCHI: Object to the  
25 form.

1 Q. (BY MR. INNES) Is that  
2 accurate?

3 A. I would word it as a risk of  
4 potential non-compliance.

5 Q. Continuing down the page, the  
6 first question is, "Is this a new or emerging  
7 risk?" Value given is 3 for existing. Is  
8 that correct?

9 A. Yes, that's what it says.

10 Q. So it was an existing risk for  
11 potential non-compliance?

12 MS. TABACCHI: Object to the  
13 form.

14 THE WITNESS: Order monitoring  
15 was an existing obligation, compliance  
16 obligation.

17 Q. (BY MR. INNES) Okay. I  
18 realize that one word is cut out of this next  
19 cell. That being said, "Risk being mitigated  
20 today by manual, systematic or combination of  
21 both today, regardless if optimal or not."

22 The numerical value assigned to  
23 that is a 5, which means no. An emerging  
24 risk that has no process in place today.

25 So again, we're talking about

1 the risk as failure to comply with an  
2 existing obligation.

3 MS. TABACCHI: Object to the  
4 form.

5 Q. (BY MR. INNES) And is that new  
6 process in place today to comply with that  
7 existing obligation?

8 MS. TABACCHI: Object to the  
9 form.

10 THE WITNESS: I'm not sure.

11 MS. TABACCHI: Is there a  
12 question, Mike, on the table? What is  
13 the question that's pending?

14 MR. INNES: I'm not sure she's  
15 done finishing the answer.

16 THE WITNESS: No, I am. I'm  
17 not sure.

18 MS. TABACCHI: Okay.

19 Q. (BY MR. INNES) You're not sure  
20 what the emerging risk that has no process in  
21 place today is?

22 MS. TABACCHI: Object to the  
23 form. Lack of foundation.

24 THE WITNESS: Yeah, I'm not  
25 sure. I remember that there were

1           several people involved in this  
2           scoring, so I don't remember which  
3           portions I was involved in and wasn't.

4                   So I don't -- it's hard to  
5           make -- for me to know what the  
6           thought was --

7           Q.       (BY MR. INNES)   So --

8           A.       -- behind the rating.

9                   MR. INNES:   Sorry.

10                  THE WITNESS:   I'm done.

11           Q.       (BY MR. INNES)   So again, this  
12           is -- at the time you're director of  
13           controlled substances; right?

14           A.       No.

15           Q.       You were not?

16           A.       I was not.

17           Q.       What was your role?

18           A.       I had just come over to the  
19           team to help on a temporary assignment.   So I  
20           was director of systems and reporting.

21           Q.       And what was that temporary  
22           assignment?

23           A.       To assist with some compliance  
24           projects.   As I mentioned earlier, I had some  
25           background in process related to systems

1 projects, and so order monitoring was one of  
2 the projects that I assisted with.

3 Q. Okay. And this was -- this  
4 project, your testimony was, related to the  
5 enhancements to Reddwerks; is that right?

6 A. Yes, I believe so.

7 Q. Okay. And could it be that  
8 we're now in the stalled phase of the  
9 Reddwerks enhancements?

10 MS. TABACCHI: Object to the  
11 form.

12 THE WITNESS: I don't  
13 remember -- this would have been very  
14 early on in the process when we were  
15 requesting systems support.

16 MR. INNES: Okay.

17 Q. (BY MR. INNES) Were you  
18 involved in requesting systems support?

19 MS. TABACCHI: Object to the  
20 form.

21 Q. (BY MR. INNES) For the  
22 Reddwerks enhancements?

23 A. Yes. That's what this is.

24 Q. (BY MR. INNES) And you were  
25 involved in that process?

1 MS. TABACCHI: Object to the  
2 form.

3 THE WITNESS: Yes.

4 Q. (BY MR. INNES) Okay. What was  
5 your involvement in the process?

6 A. I helped from a process  
7 standpoint, understanding what things needed  
8 to be completed, who they needed to go to,  
9 and how to move it forward.

10 Q. Okay. From a -- what do you  
11 mean exactly by "process standpoint"? Is  
12 that --

13 A. So --

14 Q. I'm sorry.

15 A. At Walmart, you can't just go  
16 say, "Hey, I need a project." You have to  
17 explain what you're asking for, and what you  
18 need, and why. And that's -- and get it to  
19 the right people. And that's what this email  
20 is doing, is starting the process of asking  
21 for systems enhancements.

22 Q. And as part of that ask for  
23 systems enhancements, it's an outlay of  
24 capital from a certain division of Walmart;  
25 is that right?

1 MS. TABACCHI: Object to the  
2 form.

3 THE WITNESS: I don't know if  
4 it's capital. It's just, you know,  
5 people and money to do a systems  
6 project. I don't know how it's  
7 classified.

8 Q. (BY MR. INNES) So it costs  
9 time and people's -- money and people's time  
10 to put a process in place there; right?

11 A. Yes.

12 Q. And Walmart requires folks to  
13 go through an approval process to make sure  
14 that it's actually necessary; is that right?

15 MS. TABACCHI: Object to the  
16 form.

17 THE WITNESS: Yes. I'm  
18 assuming that's why they ask us to do  
19 this.

20 Q. (BY MR. INNES) And I assume --  
21 am I correct to assume that they ask you, the  
22 folks applying -- making such applications to  
23 be truthful in those applications?

24 MS. TABACCHI: Object to the  
25 form.



1 THE WITNESS: Yes, I would  
2 assume so.

3 Q. (BY MR. INNES) And the -- this  
4 goes on to ask what -- the likelihood that  
5 the events or conditions underlying the risk  
6 will occur. Assigned to that is a numerical  
7 value of 4, which is likely.

8 In your role as -- what events  
9 or conditions underlying a risk of  
10 non-compliance are there?

11 MS. TABACCHI: Object to the  
12 form.

13 THE WITNESS: So at this time,  
14 in June of 2014, I had maybe been on  
15 this special assignment for less than  
16 two weeks. So I don't believe I  
17 answered these. I don't know that I  
18 would have even known enough about  
19 what it was at that point in time to  
20 have completed these answers. So it's  
21 hard for me to answer why or what was  
22 meant by the responses.

23 Q. (BY MR. INNES) Fair point.  
24 Maybe my question -- my question definitely  
25 wasn't clear. I'm sorry.

1           A.       Okay.

2           Q.       So in your role today, what are  
3       the risks that underlie -- or, I'm sorry,  
4       what are the events or conditions that  
5       underlie the risk of failure to comply with  
6       DEA regulations?

7                   MS. TABACCHI: Object to the  
8       form.

9                   THE WITNESS: Can you tell me  
10       again where you're looking? Or are  
11       you looking at the document or --

12          Q.       (BY MR. INNES) No.

13          A.       -- you're just asking  
14       generally?

15          Q.       That's just a question.

16          A.       I'm sorry, I'm not sure I  
17       understand what you're asking.

18                   Could you ask it one more time?

19          Q.       Sure.

20                   There's -- let me give you a  
21       breakdown.

22                   In your role, is there a risk  
23       of -- is there a potential risk of  
24       non-compliance with DEA regulations?

25                   MS. TABACCHI: Object to the

1 form.

2 THE WITNESS: Yes.

3 Q. (BY MR. INNES) And what events  
4 or conditions underlie that risk occurring?

5 MS. TABACCHI: Object to the  
6 form.

7 THE WITNESS: I mean, failure  
8 to follow a policy could result in  
9 non-compliance.

10 MR. INNES: Okay.

11 Q. (BY MR. INNES) Would a failure  
12 to detect a suspicious order result in  
13 non-compliance?

14 MS. TABACCHI: Object to the  
15 form.

16 THE WITNESS: It would have  
17 been a failure of our policy.

18 Q. (BY MR. INNES) If Walmart does  
19 not detect an order that was otherwise  
20 suspicious, is that a failure to comply with  
21 the DEA regulations?

22 MS. TABACCHI: Object to the  
23 form. Calls for a legal conclusion.

24 THE WITNESS: I don't know.

25 Q. (BY MR. INNES) You're the

1 director of controlled substances. If you  
2 don't spot a suspicious order, that's a  
3 problem; right?

4 MS. TABACCHI: Object to the  
5 form.

6 THE WITNESS: We had policies  
7 in place to identify and report  
8 suspicious orders.

9 Q. (BY MR. INNES) And if there  
10 was a suspicious order -- let's say  
11 hypothetically a suspicious order that you  
12 weren't -- that you didn't capture, you'd  
13 want to improve the system to capture that,  
14 wouldn't you?

15 MS. TABACCHI: Object to the  
16 form. We're talking about  
17 hypotheticals here.

18 THE WITNESS: Yes. I mean, the  
19 purpose of the policy was to identify  
20 and report suspicious orders.

21 Q. (BY MR. INNES) Right. And  
22 you're continually trying to improve that  
23 process to make sure you're capturing the  
24 right kinds of orders; is that right?

25 MS. TABACCHI: Object to the

1 form.

2 THE WITNESS: Yes.

3 Q. (BY MR. INNES) At this point  
4 in time, just so I'm clear, the -- you don't  
5 know exactly what policies were in place for  
6 suspicious order monitoring; is that right?  
7 In July of 2014?

8 A. Yes, I don't know if I knew at  
9 the time.

10 Q. But certainly the enhancements  
11 weren't in place?

12 MS. TABACCHI: Object to the  
13 form.

14 THE WITNESS: Did you say were  
15 or were not?

16 MR. INNES: Were not.

17 THE WITNESS: No, the  
18 enhancements were not in place.

19 Q. (BY MR. INNES) In fact, this  
20 is an application by folks at Walmart to the  
21 NSD, IT folks, to put enhancements in place  
22 in the Reddwerks system; is that right?

23 A. Yes.

24 Q. And the -- what the folks that  
25 filled out this form said was it was likely

1       that the events or condition underlying the  
2       risks will occur. Isn't that right?

3                   MS. TABACCHI: Object to the  
4       form.

5                   THE WITNESS: Can you tell me  
6       where you're looking?

7                   MR. INNES: I'm on 101-1,  
8       middle of the page.

9                   THE WITNESS: Yes, that's what  
10      the score says.

11                  Q.       (BY MR. INNES) And the folks  
12      that filled out this scoring metric said was,  
13      "The potential or reputational impact to the  
14      company if the events or conditions occur  
15      would have been severe." Isn't that correct?

16                  MS. TABACCHI: Object to the  
17      form.

18                  THE WITNESS: That's what the  
19      document says.

20                  Q.       (BY MR. INNES) Okay.

21                         In fact, they said, this  
22      particular system that they're asking for  
23      would not mitigate any other risk outside of  
24      that -- outside of the area; isn't that  
25      right?

1 MS. TABACCHI: Object to the  
2 form.

3 THE WITNESS: That's what it  
4 says.

5 Q. (BY MR. INNES) So the only  
6 reason to fill out this application is to  
7 obtain approval for the Reddwerks  
8 enhancements so they comply with the DEA  
9 obligations at the time.

10 MS. TABACCHI: Object to the  
11 form.

12 THE WITNESS: This was  
13 requesting the Reddwerks enhancements,  
14 and we anticipated that the  
15 enhancements would also comply with  
16 DEA regulations.

17 Q. (BY MR. INNES) I'm going to  
18 bring you back in time to when the Reddwerks  
19 enhancements were beginning to roll out -- or  
20 sorry, beginning to be piloted.

21 A. Okay.

22 Q. Was there a schedule for  
23 piloting the enhancements at the various DCs?

24 A. I'm sure we had a schedule,  
25 mm-hmm.

1 Q. Was there a need to pilot the  
2 6 -- to pilot the enhancements at 6045 by  
3 November of 2014?

4 MS. TABACCHI: Object to the  
5 form.

6 THE WITNESS: I can't remember  
7 the exact date of the pilot schedule.

8 Q. (BY MR. INNES) Slightly  
9 different question. Was there a priority --  
10 was priority given to certain DCs for  
11 piloting?

12 A. I do believe that we were going  
13 to 6045 first with the pilot. It was local,  
14 so it was easier to pilot and have people  
15 on-site.

16 Q. Was that the only reason,  
17 proximity to -- I guess to the home office.  
18 Is that what you're saying?

19 A. That's what I remember, mm-hmm.

20 Q. It had nothing to do with the  
21 fact that, at that time, 6045 was  
22 distributing -- was the sole distributor of  
23 C-IIs?

24 A. I don't remember if that came  
25 into play. It may have.



1           Q.       As you sit here as a director  
2       of controlled substances, would it make sense  
3       to you that Walmart would want to make sure  
4       it had the enhancements to Reddwerks in place  
5       at the C-II facility as soon as possible?

6                   MS. TABACCHI: Object to the  
7       form.

8                   THE WITNESS: We had a program  
9       in place at the time, so I don't know  
10      that it made a significant difference  
11      which location we went to first.

12          Q.       (BY MR. INNES) Well, if you're  
13      confident that the enhancements are going to  
14      have a more robust suspicious order  
15      monitoring program, doesn't it make the most  
16      sense to put that in the highest-risk  
17      facility?

18                  MS. TABACCHI: Object to the  
19      form.

20                  THE WITNESS: I don't remember  
21      that we felt that we had a program  
22      that wasn't sufficient at the time  
23      anyway.

24          Q.       (BY MR. INNES) But you've  
25      never looked at the program that was in place

1 prior to the enhancements; isn't that right?

2 MS. TABACCHI: Object to the  
3 form.

4 THE WITNESS: What do you mean  
5 by that?

6 Q. (BY MR. INNES) Have you  
7 examined the processes in place prior to the  
8 enhancements?

9 MS. TABACCHI: Same objection.

10 THE WITNESS: I was focused on  
11 the enhancements themselves.

12 Q. (BY MR. INNES) That wasn't the  
13 question. Did you examine the policies that  
14 were in place prior to the enhancements?

15 A. I knew that there were policies  
16 in place, and that there was a process.

17 Q. Did you know any particulars  
18 about that process?

19 MS. TABACCHI: Object to the  
20 form. Asked and answered.

21 THE WITNESS: I can't remember  
22 what level of detail I knew at the  
23 time.

24 Q. (BY MR. INNES) Did you have  
25 any level of detail?

1 MS. TABACCHI: Object to the  
2 form.

3 THE WITNESS: I can't remember.  
4 (Walmart Johnson Deposition  
5 Exhibit 4 was marked for  
6 identification.)

7 [Document review.]

8 THE WITNESS: Okay.

9 Q. (BY MR. INNES) Okay. So,  
10 Ms. Johnson, this is an email from you to  
11 George Chapman, October 28th, 2014 at 3:19.  
12 It attaches an SOMstrategy.pptx, which is a  
13 PowerPoint presentation that we have printed  
14 in native format and attached here.

15 Do you recall this PowerPoint?

16 A. Yes. It looks familiar.

17 Q. In your email you say you made  
18 some adjustments to the deck based on your  
19 conversation with Jim yesterday. Is that  
20 Jim Irby?

21 A. I believe that would have been  
22 Jim Langman.

23 Q. Some were cosmetic, but I  
24 changed the content of slides 2, 5, and 9.  
25 So let's just go through them in that order,

1 if you don't mind.

2 Slide 2 is the current SOM  
3 program. So that's the current SOM program  
4 in October -- on October 28, 2014; is that  
5 correct?

6 A. Yes. I believe so.

7 Q. Okay. And so that would be  
8 pre-enhancements?

9 A. Yes.

10 Q. So it says here -- and this is  
11 a slide that you made edits to -- that the  
12 pre-enhanced Reddwerks system flagged orders,  
13 over 20 bottles, in C-II DC, over 50 bottles  
14 in all other DCs, and greater than 30 percent  
15 increase over the rolling four-week average.

16 Do you understand that to be  
17 correct?

18 A. Yes.

19 Q. So before when you testified  
20 you didn't recall what the Reddwerks system  
21 flagged prior to the enhancements --

22 A. I didn't remember all of the  
23 details.

24 Q. But there is -- this refreshes  
25 your recollection on that?

1           A.       Yes. This seems accurate.

2           Q.       Okay.

3                    I know it's -- it was a while  
4 ago.

5           A.       Yeah.

6           Q.       I'm not trying to play gotcha.  
7 Maybe I should have brought this document out  
8 earlier.

9                    DC cuts orders over 50 bottles  
10 down to 50 bottles. Oxy down to 20 bottles.

11                   Can you translate that for me?  
12 What are we talking about when you say "DC  
13 cuts orders"?

14           A.       My understanding is if the  
15 order was over 50 bottles or over 20 bottles  
16 for Oxy 30, we would not ship more than 50 or  
17 20 bottles for Oxy 30.

18           Q.       So giving you a hypothetical.  
19 We have 60 bottles of Opana, and we cut it  
20 down to -- we cut it down to 50 and you  
21 shipped that; is that right?

22                   MS. TABACCHI: Object to the  
23 form.

24                   THE WITNESS: Yes, that could  
25 be an example.

1 Q. (BY MR. INNES) Would that be  
2 considered a suspicious order at the time?

3 MS. TABACCHI: Object to the  
4 form.

5 THE WITNESS: Not necessarily.

6 Q. (BY MR. INNES) Okay. So when  
7 we're talking about the current SOM program,  
8 what are we talk -- what's the -- what does  
9 "SOM" mean in that context?

10 A. Suspicious order monitoring.

11 Q. And are these first two bullets  
12 the way that -- I'm sorry, and at the time  
13 Reddwerks flagged suspicious orders; is that  
14 right?

15 MS. TABACCHI: Object to the  
16 form.

17 THE WITNESS: Reddwerks flagged  
18 orders based on these criteria.

19 Q. (BY MR. INNES) So at the  
20 time --

21 A. The --

22 Q. Go ahead.

23 A. We did -- just because they met  
24 these criteria did not mean they were  
25 suspicious.

1 Q. It meant they were flagged?

2 A. Yes.

3 Q. Or they were orders of  
4 interest; right?

5 A. Yes.

6 MS. TABACCHI: Object to the  
7 form.

8 Q. (BY MR. INNES) And what did  
9 they -- they pended? Is that another --

10 MS. TABACCHI: Object to the  
11 form.

12 THE WITNESS: I think we called  
13 it "flagged" at this time.

14 MR. INNES: Okay.

15 Q. (BY MR. INNES) And who made  
16 the decision at that time to cut?

17 A. This would have occurred at the  
18 DC.

19 Q. And at that time, was there a  
20 process in place where it was -- the DC  
21 decided that the order needed to be escalated  
22 for further review?

23 MS. TABACCHI: Object to the  
24 form.

25 THE WITNESS: Can you clarify

1                   timeframe?

2                   Q.           (BY MR. INNES)   So I think  
3                   we're at -- yep, October of '14.

4                   A.           Okay. I think at this time the  
5                   DC -- if there was an order that there was a  
6                   concern, was something more than just, you  
7                   know, a -- an accidental order or something  
8                   like that, and they believed it needed a  
9                   further look, they could submit it to  
10                  logistics compliance.

11                  It was around this timeframe  
12                  that they started doing that. I don't  
13                  remember the exact date.

14                  Q.           Okay. Would any of the orders  
15                  that went to logistics, would you -- would  
16                  you, as director of controlled substances,  
17                  review any of those orders?

18                  MS. TABACCHI: Object to the  
19                  form.

20                  Q.           (BY MR. INNES) During this  
21                  time period?

22                  A.           It would have been right around  
23                  this time period that I could have been  
24                  engaged if it was escalated past logistics  
25                  compliance.



1 Q. Okay.

2 A. It's -- it was all very fluid,  
3 and we were making changes along the way, so  
4 it's kind of hard to -- the timeframe runs  
5 together.

6 Q. But certainly those changes  
7 were reflected in Walmart's policies.

8 MS. TABACCHI: Object to the  
9 form.

10 THE WITNESS: Yes, we did  
11 reflect them in policies. I just  
12 don't remember the exact timeframes  
13 and when things were actually  
14 published, that kind of thing.

15 Q. (BY MR. INNES) Okay. But  
16 another way of asking, you wouldn't -- folks  
17 who were involved in the SOM, when they're  
18 looking at orders of interest or suspicious  
19 orders, they wouldn't do anything other than  
20 was written in the policies; is that right?

21 MS. TABACCHI: Object to the  
22 form. Lack of foundation.

23 THE WITNESS: I mean, we  
24 followed our suspicious order  
25 monitoring policies.

1 Q. (BY MR. INNES) If a DC cut an  
2 order from 30 down to 20, that would have  
3 been -- so, I'm sorry. Strike that.

4 The Oxy 30, that would be an  
5 order of interest; is that right?

6 MS. TABACCHI: Object to the  
7 form.

8 THE WITNESS: Not necessarily.

9 Q. (BY MR. INNES) I'm sorry. I  
10 left out half the question.

11 So if an Oxy 30 over 20 -- an  
12 order for Oxy 30 over 20 bottles was placed,  
13 would that be considered an order of interest  
14 at this time?

15 MS. TABACCHI: Object to the  
16 form.

17 THE WITNESS: Not necessarily.

18 Q. (BY MR. INNES) Okay. And --  
19 but it could be?

20 A. It could be.

21 Q. And what would elevate it from  
22 an appropriate order to an order of interest?

23 MS. TABACCHI: Object to the  
24 form.

25 THE WITNESS: The circumstances

1 of the order.

2 Q. (BY MR. INNES) And who would  
3 make that determination?

4 A. That would have been made on  
5 the logistics side.

6 Q. So were there reports of Oxy 30  
7 cuts that were made to logistics?

8 MS. TABACCHI: Object to the  
9 form.

10 THE WITNESS: I don't know.

11 Q. (BY MR. INNES) So I guess my  
12 question is how -- if the cut is made at the  
13 DC level -- that's right; correct?

14 A. Yes.

15 Q. How does anyone outside the DC  
16 know, if at all, that a cut was made?

17 MS. TABACCHI: Object to the  
18 form.

19 THE WITNESS: I don't know,  
20 because those wouldn't have come to  
21 me. They would have come to logistics  
22 compliance.

23 Q. (BY MR. INNES) And logistics  
24 compliance would have reviewed particular  
25 Oxy 30 cut 20. None of those ever made it

1 through -- past logistics and into your  
2 domain?

3 MS. TABACCHI: Object to the  
4 form.

5 THE WITNESS: I don't remember  
6 if they did or not.

7 Q. (BY MR. INNES) Would there  
8 be -- do you have records of what you've  
9 reviewed during this timeframe for orders of  
10 interest?

11 A. I would have emails, that kind  
12 of thing.

13 Q. Would it have been documented  
14 in Archer?

15 A. I don't remember if Archer was  
16 being used at this time. I don't think it  
17 was being used yet.

18 Q. So if Archer wasn't -- strike  
19 that.

20 Before recording -- before the  
21 possible recording to Archer, what was done  
22 for recording the reports?

23 MS. TABACCHI: Object to the  
24 form.

25 THE WITNESS: I don't know what

1           was done prior to me being in role.  
2           There was a period of time between  
3           when I started my role and we  
4           transitioned to Archer where there was  
5           documentation from a web form that the  
6           DCs could fill out and submit. And  
7           then logistics compliance, I believe  
8           they documented their notes within  
9           this web form mailbox that they used.

10           Q.       (BY MR. INNES) If -- sitting  
11           here today, if you wanted to go back and look  
12           at an order from that time period, could you  
13           do that?

14                   MS. TABACCHI: Object to the  
15           form.

16                   THE WITNESS: An order or -- is  
17           that what you're asking about? If I  
18           could look at an order?

19                   MR. INNES: That's a fair  
20           question.

21           Q.       (BY MR. INNES) If you wanted  
22           to go back and look at your review of an  
23           order of interest during that time period --  
24           the time period we're talking about is  
25           pre-Archer -- how would you do that?

1                   If you -- if it's -- if it's  
2       even possible.

3           A.       I don't know if it's -- I don't  
4       know if it's possible. I don't know.

5           Q.       You've never -- you've never  
6       tried to do it?

7           A.       I've never tried to do it.

8           Q.       This third bullet here talks  
9       about reports. First says "Daily." Orders  
10      over 20 bottles of a C-II item.

11                   What are those Daily Reports?

12          A.       I don't know.

13          Q.       Okay.

14          A.       I don't believe I received  
15      those.

16          Q.       Do you know who received them?

17          A.       I don't.

18          Q.       Do you know if they've been  
19      retained?

20          A.       I don't.

21          Q.       Same for the monthly. Did you  
22      receive those monthly reports that are  
23      referenced at the bottom of the document?

24          A.       I may have received one or two.  
25      I don't remember receiving them on a regular

1 basis.

2 Q. Okay. And I know this is a  
3 very long time ago, but you do say in the  
4 email that you made changes to No. 2. And  
5 honestly, I didn't think I was going to ask  
6 this question, but I'm assuming those changes  
7 were made to bullets 1 or -- 1 or 2? Is that  
8 right?

9 MS. TABACCHI: Object to the  
10 form.

11 THE WITNESS: I don't know. It  
12 could have been any of those bullets  
13 because George and Jim had been around  
14 longer than I have, so they would have  
15 had a better understanding of the  
16 current SOM program.

17 Q. (BY MR. INNES) But you do say  
18 you made content changes to slide 2; right?

19 A. Yes. But it was based on our  
20 conversation.

21 Q. Okay. So you might have been  
22 implementing changes in these --

23 A. They're recommending, yes.

24 Q. Turn to page 3 of the deck.

25 "Improvement opportunities in the current

1       program." Again, the current program in  
2       October of 2014 was Reddwerks  
3       pre-enhancement; is that right?

4               A.       Yes.

5               Q.       And bullet 2 says, "Flags only  
6       identify 'unusual size.'" What does that  
7       mean?

8                       MS. TABACCHI: Object to the  
9       form.

10               THE WITNESS: I don't know.

11               MR. INNES: Okay.

12               THE WITNESS: I don't know that  
13       I agree with that.

14               Q.       (BY MR. INNES) You don't know  
15       that -- sorry?

16               A.       I don't necessarily agree with  
17       that bullet.

18               Q.       Okay. Why don't you agree with  
19       that bullet?

20               A.       Because if you look at the  
21       criteria that were reviewed --

22               Q.       And you're looking at --

23               A.       The slide 2.

24               Q.       Mm-hmm.

25               A.       That could have captured other



1       than just an unusual size.

2               Q.       What else other than unusual  
3       size could the criteria on slide 2 have  
4       captured?

5               A.       The frequency or pattern.

6               Q.       Which one would be frequency?

7               A.       The increase over four-week  
8       average.

9               Q.       So what's your understanding of  
10       what the 30 percent increase over a rolling  
11       four-week average means?

12              A.       That the orders -- there was a  
13       30 percent increase in the order over their  
14       average over.

15              Q.       And that would be a 30 percent  
16       increase in size over the four-week average?

17                      MS. TABACCHI: Object to the  
18       form.

19                      THE WITNESS: I'm not sure.

20                      MR. INNES: Okay.

21              Q.       (BY MR. INNES) Anything else  
22       on there that would capture anything other  
23       than unusual size? You said trends?

24              A.       No, I think that's -- that  
25       would be the one that would be most likely to

1 capture the other -- the pattern of  
2 frequency.

3 Q. I'm sorry, which would capture  
4 the pattern of frequency?

5 A. Of the greater than 30 percent  
6 increase.

7 Q. How would you use greater than  
8 30 percent increase to capture pattern of  
9 frequency?

10 A. Because it's looking at their  
11 typical average. And so that increase could  
12 be caused by them ordering more frequently or  
13 changing their pattern of ordering.

14 Q. I think you said -- well, you  
15 did say it's looking at their typical  
16 average. It's actually looking at their  
17 rolling four-week average; right?

18 A. Yes, rolling four-week average.

19 Q. Which is different than typical  
20 average?

21 A. Yes.

22 Q. I'm going to bring you back to  
23 slide 3. How -- well, again, we see flags  
24 only -- it only -- flags only identify  
25 unusual size.

1                   It didn't identify  
2           substantially from a normal pattern, did it?

3                   MS. TABACCHI: Object to the  
4           form.

5                   THE WITNESS: I think it could  
6           have.

7           Q.       (BY MR. INNES) And what do you  
8           base that on?

9           A.       Because if they're ordering in  
10          a different pattern, a more frequent pattern,  
11          it could cause a higher order volume.

12          Q.       And which one of the metrics  
13          are you pointing to?

14          A.       The greater than 30 percent  
15          increase.

16          Q.       Moving back to slide 3 again.  
17          Bullet point 3, "McKesson orders are not  
18          considered in evaluation."

19                   I think earlier you testified  
20          that McKesson orders were considered in the  
21          eval -- in the evaluation.

22                   MS. TABACCHI: Object to the  
23          form.

24                   THE WITNESS: I know for sure  
25          that McKesson orders were considered

1 post-enhancements. I had believed  
2 that they were considered in the  
3 program prior to that.

4 Q. (BY MR. INNES)

5 Post-enhancement. When -- remind me again  
6 the date of the enhancements?

7 A. 2015.

8 MS. TABACCHI: Mike, if you're  
9 moving to another document? Let us  
10 know when is a good time for a break.  
11 I have a technical issue.

12 MR. INNES: If I can just do  
13 this exhibit quickly. We're going to  
14 keep going through this, so just keep  
15 this handy. I just want to bring out  
16 this one. This should be quick.

17 THE WITNESS: Okay.

18 MR. INNES: And then we can  
19 take a technical break.

20 (Walmart Johnson Deposition  
21 Exhibit 5 was marked for  
22 identification.)

23 [Document review.]

24 THE WITNESS: Okay.

25 Q. (BY MR. INNES) So I'm just

1       going to -- this is an email string from you  
2       to -- in the middle of the page it's from  
3       you, Miranda Johnson, on May 3rd, 2017 to a  
4       Katrina Jamison.

5                       Who is Katrina Jamison?

6               A.       She was a senior director in  
7       our operations -- health and wellness  
8       operations group.

9               Q.       And it looks like you're giving  
10       her the heads-up that "Ramona Sullins is  
11       going to be reaching out to you in the near  
12       future to discuss what project for route  
13       orders directed to McKesson when DC is out of  
14       product."

15                      What orders were being routed  
16       directly to McKesson when a DC was out of  
17       product?

18                      MS. TABACCHI: Object to the  
19       form.

20                      MR. INNES: I can -- that's a  
21       good objection.

22               Q.       (BY MR. INNES) In the near  
23       future -- at some point, you -- Walmart was  
24       contemplating rolling out a project of  
25       routing orders directly to McKesson when the

1 DC was out of product.

2 What -- what does that mean  
3 exactly? What orders are being direct -- or  
4 routed directly to McKesson?

5 MS. TABACCHI: Object to the  
6 form.

7 THE WITNESS: So McKesson is a  
8 supplemental distributor for us, and  
9 so pharmacies would order from  
10 McKesson if our DC did not carry that  
11 product, or if our DC was out of stock  
12 in that product.

13 So what this project would do  
14 is when the DC received an order for a  
15 product where they were out of stock,  
16 instead of the pharmacy having to wait  
17 to get notified that the DC was out of  
18 stock and then the pharmacy having to  
19 go to McKesson and place that order --

20 MR. INNES: Okay.

21 THE WITNESS: -- our DC would  
22 basically send that order directly to  
23 McKesson, as soon as the computer got  
24 the order and said, "Hey, we're out of  
25 stock" so that McKesson could

1           potentially fulfill that order.

2           Q.       (BY MR. INNES) And when you  
3       say "Those direct to McKesson orders limit  
4       our ability to get full visibility to what  
5       pharmacies order," what do you mean by that?

6           A.       When a pharmacy would order  
7       directly from McKesson, we couldn't see that  
8       order when it happened because it was going  
9       directly to McKesson. We would see it after  
10      the fact. And so there was benefit to it  
11      coming directly through us versus going to  
12      McKesson and then us seeing it after it had  
13      already been placed.

14          Q.       Okay. So what was the lag time  
15      between when the order was placed and when  
16      you had visibility on the order?

17                   MS. TABACCHI: Object to the  
18      form.

19                   THE WITNESS: I'm not sure  
20      exactly how all the timing works, but  
21      maybe a day.

22          Q.       (BY MR. INNES) And where does  
23      that information come from?

24                   MS. TABACCHI: Object to the  
25      form.

1 THE WITNESS: We have a --

2 McKesson has a site where we could  
3 access the information.

4 Q. (BY MR. INNES) Okay. So it's  
5 McKesson providing the data back to Walmart?

6 A. We could log in and pull  
7 reports.

8 Q. And did you do that on  
9 schedule -- at scheduled times?

10 MS. TABACCHI: Object to the  
11 form.

12 THE WITNESS: We did it as  
13 needed, as we were evaluating orders.

14 Q. (BY MR. INNES) And what do you  
15 mean by that?

16 A. So when we were evaluating an  
17 order of interest, we would go in and pull  
18 our report for that drug and that location.

19 Q. Okay. And you did that every  
20 order of interest?

21 A. I know we did it from a  
22 practice compliance standpoint. I can't  
23 remember if logistics did it at their  
24 evaluation on every order.

25 Q. Okay. So during the timeframe



1       when an order is flagged by Reddwerks, it  
2       goes through the DC. It makes its way to  
3       logistics. Logistics could do an order of  
4       interest evaluation absent -- without -- I'm  
5       sorry, without any visibility to McKesson's  
6       direct McKesson orders? Is that possible?

7                   MS. TABACCHI: Object to the  
8       form.

9                   THE WITNESS: Is it possible  
10       that they didn't review it?

11                  MR. INNES: Correct.

12                  THE WITNESS: I believe it's  
13       possible.

14                  I think it's important to note,  
15       though, that McKesson knew they were a  
16       supplemental distributor, and so they  
17       have their own suspicious order  
18       monitoring program, and they set very  
19       low thresholds for our pharmacies  
20       because they knew that we use them on  
21       a limited basis.

22                  Q.       (BY MR. INNES) Do you know if  
23       McKesson -- did you -- strike that.

24                  Did you share your distribution  
25       data with McKesson?

1 MS. TABACCHI: Object to the  
2 form.

3 THE WITNESS: The McKesson --  
4 I'm not sure if we had, if it had been  
5 done before I started. McKesson also  
6 had their own distribution data on  
7 what they were distributing to us.

8 Q. (BY MR. INNES) Right. Which  
9 is the data that you -- that you pulled  
10 during the order of interest evaluation in  
11 the compliance portion of the review; is that  
12 right?

13 MS. TABACCHI: Object to the  
14 form.

15 THE WITNESS: Yes. We could  
16 review what our pharmacists had  
17 ordered, yes.

18 Q. (BY MR. INNES) Right. But --  
19 and was that an auto-populated -- was that an  
20 auto-populated screen in Archer?

21 MS. TABACCHI: Object to the  
22 form.

23 THE WITNESS: No.

24 Q. (BY MR. INNES) No? That was  
25 something you had to go to McKesson, manually

1 pull that data, then make that part of your  
2 evaluation?

3 A. Yes.

4 Q. And if an order -- did you ever  
5 see an order of interest evaluation that made  
6 it to your desk, where a member of the  
7 logistics team had documented that they had  
8 done such a -- such a poll?

9 MS. TABACCHI: Object to the  
10 form.

11 THE WITNESS: I don't remember.

12 Q. (BY MR. INNES) Was there ever  
13 a written policy that said, you know, when  
14 we're doing an order of interest evaluation,  
15 let's make sure we look at the McKesson  
16 direct orders?

17 MS. TABACCHI: Object to the  
18 form.

19 THE WITNESS: I don't know if  
20 we had a written policy on that  
21 specifically.

22 MR. INNES: I know you asked to  
23 take a break, but just let me --

24 MS. TABACCHI: When it works  
25 for you, Mike.

1 MR. INNES: Yeah, now's a good  
2 time to go off the record.

3 VIDEOGRAPHER: We are going off  
4 the record at 2:46 p.m.

5 (Recess taken, 2:46 p.m. to  
6 3:02 p.m.)

7 VIDEOGRAPHER: We are back on  
8 the record at 3:02 p.m.

9 Q. (BY MR. INNES) Okay.  
10 Ms. Johnson, we're back.

11 A. Okay.

12 Q. We're still looking at  
13 plaintiffs' 4.

14 A. Before we move on, can I  
15 clarify something on Exhibit 5?

16 Q. Sure.

17 A. This -- the order routing  
18 that's referenced in this email was only for  
19 IIIs through Vs.

20 We already did order routing  
21 for C-IIIs, because all C-IIIs orders had to go  
22 through our DC to actually be placed.

23 Q. Okay.

24 A. So this only applied to IIIs  
25 through Vs. I just wanted to clarify that.

1           Q.       And so let me just make sure I  
2       understand. So my question -- and the main  
3       purpose is so I understand what visibility  
4       you had into McKesson direct orders of C-IIs  
5       and C-IIIs during your order of interest  
6       reviews. So did -- did you have visibility  
7       on the McKesson direct orders during those  
8       reviews?

9           A.       Yes. We did.

10          Q.       And again, what time period did  
11       you have that visibility?

12          A.       Can you clarify what you mean  
13       by "time period"?

14          Q.       Sure. When did you -- when was  
15       the earliest point in time that Walmart  
16       considered McKesson's orders, orders  
17       direct -- direct McKesson orders during its  
18       order of interest review?

19                   MS. TABACCHI: Object to the  
20       form.

21                   THE WITNESS: I know for sure  
22       that it occurred starting with the  
23       enhancements. I'm not sure how early  
24       before then it may have started.

25                   MR. INNES: Okay.

1 Q. (BY MR. INNES) So going back  
2 to page 3 -- page 3 of the slide deck where  
3 it says "McKesson orders are not considered  
4 in evaluation." This is, again, in October  
5 of 2014.

6 Is that an accurate -- is that  
7 an accurate statement, "McKesson orders are  
8 not considered in evaluation"?

9 MS. TABACCHI: Object to the  
10 form.

11 THE WITNESS: So I'm not sure  
12 if this is referencing the order  
13 evaluation or the threshold  
14 evaluation.

15 Q. (BY MR. INNES) So let's see if  
16 we can't get to actualize this, then.

17 If you go back to slide 2. It  
18 says "Current SOM program."

19 And then these bullets that we  
20 discussed below were directed at -- right  
21 where it's flagged, orders; is that right?

22 A. Yes.

23 Q. Okay. So we go to slide 3.  
24 "Look at improvement opportunities in the  
25 current program."

1                   Is there anything in here  
2           that -- strike that.

3                   Let me do this a different way.

4                   Do you know if McKesson orders  
5           were considered in the order of interest  
6           evaluation in October of 2014?

7                   MS. TABACCHI: Object to the  
8           form.

9                   THE WITNESS: I don't know for  
10          sure if they were included in the  
11          evaluation of an order of interest to  
12          determine if it's suspicious.

13          Q.       (BY MR. INNES) Do you know if  
14          McKesson orders were considered in the  
15          threshold adjustment evaluation in October of  
16          2014?

17                  MS. TABACCHI: Object to the  
18          form.

19                  THE WITNESS: There were not  
20          threshold adjustment evaluations in  
21          October of 2014.

22                  MR. INNES: Okay.

23                  THE WITNESS: Those began after  
24          the enhancement.

25          Q.       (BY MR. INNES) So are there

1 any other evaluations that this line could be  
2 referring to other than threshold and order  
3 of interest?

4 A. It could be referring to the  
5 evaluation to determine if an order flags.

6 Q. Okay. And that would be a  
7 determination of -- let me see.

8 An order would flag during this  
9 time period if it was above a threshold?

10 A. If it met one of these criteria  
11 outlined at the top of slide 2.

12 Q. Are any of these thresholds?

13 A. I would consider the top two,  
14 the over 20 bottles and the over 50 bottles  
15 thresholds.

16 Q. Okay. So are the McKesson  
17 orders considered in the over 20 or over  
18 50-bottle evaluations?

19 MS. TABACCHI: Object to the  
20 form.

21 THE WITNESS: I'm not positive  
22 if they were considered to determine  
23 if an order flagged for the over  
24 20 bottles at the C-IIs, but it is  
25 possible because all of the C-II



1 orders, even McKesson, had to go to  
2 the C-II facility to be ordered.

3 And I'm -- I don't believe, I'm  
4 not positive, that they would have  
5 been included in the flag for the  
6 over 50 at the other DCs.

7 Q. (BY MR. INNES) So you  
8 testified that "I am not positive if they  
9 were considered to determine if an order  
10 flagged for the over 20 bottles at the C-IIs,  
11 but it's possible because all of the C-II  
12 orders, even the McKesson, had to go to the  
13 C-IIs facilities to be ordered." It's the  
14 last part of that sentence that confuses me.

15 A. Okay.

16 Q. I thought we had been talking  
17 about -- and I'm sorry if I confused you --  
18 the orders that were placed from pharmacies  
19 directly to McKesson.

20 A. That's what I was -- sorry,  
21 that's what I was trying to clarify on this  
22 exhibit. They were placed directly to  
23 McKesson for only IIIs through Vs. Our  
24 pharmacies do not have the power of attorney  
25 to place C-II orders directly to McKesson, so

1       those orders have to be sent to our C-II  
2       facility.

3               Q.       Okay.

4               A.       That is where the power of  
5       attorney rests to place the C-II orders using  
6       CSOS, the controlled substance ordering  
7       system. So C-II orders cannot be placed  
8       directly to McKesson.

9               Q.       Okay. So how would it work if  
10      an order for a C-II was placed both by --  
11      well, by the pharmacy, for, say -- we can do  
12      Oxy 30s for 15. And then another order  
13      was -- well, how were orders placed? Let's  
14      start there.

15              A.       There are two ways that an  
16      order can be placed for a pharmacy. We have  
17      a replenishment system that places orders.  
18      We also -- the pharmacy itself can place an  
19      order. We would call that a manual order.

20              Q.       Okay.

21              A.       For a C-II, probably the best  
22      way to think about it is they're actually  
23      requesting an order be placed because they  
24      don't have the authority to place a C-II  
25      order.

1 Q. "They" being the pharmacy?

2 A. Yes.

3 Q. And they make the request of  
4 who?

5 A. It goes to the C-II facility or  
6 a power of attorney.

7 Q. Okay.

8 A. They have the power of attorney  
9 to place the C-II orders.

10 Q. So in ultimately deciding  
11 whether or not they're going to fulfill a  
12 manual order, what does the DC -- what's the  
13 DC's evaluation process?

14 MS. TABACCHI: Object to the  
15 form.

16 THE WITNESS: Can you clarify  
17 what you're --

18 MR. INNES: Sure.

19 THE WITNESS: What you're  
20 asking.

21 Q. (BY MR. INNES) So a manual  
22 order comes in to the pharmacy -- or comes in  
23 from the pharmacy to DC 6045 for Oxy 30.  
24 What happens next?

25 A. It goes into the CSOS system.

1 Q. And if that one was for, say,  
2 Oxy 30, 50 bottles, what happens?

3 MS. TABACCHI: Object to the  
4 form.

5 THE WITNESS: If it was Oxy 30,  
6 it would have flagged because it's  
7 50 bottles.

8 Q. (BY MR. INNES) And it would  
9 have been cut down to 20?

10 A. That's my understanding.

11 Q. Okay. Would that order itself,  
12 would that order be evaluated as an order of  
13 interest?

14 MS. TABACCHI: Object to the  
15 form.

16 THE WITNESS: It potentially  
17 could be.

18 Q. (BY MR. INNES) And during this  
19 time period, October of 2014, what -- what  
20 would tip it towards being an order of  
21 interest?

22 MS. TABACCHI: Object to the  
23 form.

24 THE WITNESS: I wasn't the one  
25 to decide whether or not it was an

1           order of interest. It would have been  
2           done with logistics compliance. So  
3           it's hard for me to say what they  
4           would have used as criteria.

5           Q.       (BY MR. INNES) Do you know the  
6           policies that were in place at that time?

7                   MS. TABACCHI: Object to the  
8           form.

9                   THE WITNESS: We reviewed them  
10          earlier.

11          Q.       (BY MR. INNES) You don't have  
12          to -- you said there was a policy in place?

13          A.       During October of 2014?

14          Q.       Correct.

15          A.       Yes.

16          Q.       To address manual orders from  
17          the pharmacy directly?

18          A.       I don't know if it specifically  
19          outlined a manual order versus a system  
20          order.

21          Q.       At that time, is an -- is an  
22          order -- at that time is an order of Oxy 30  
23          above 20 an order of interest?

24                   MS. TABACCHI: Object to the  
25          form.

1 THE WITNESS: I don't know.

2 Q. (BY MR. INNES) So as a  
3 director of controlled substances, where  
4 exactly does your responsibility begin to  
5 know things along the order of interest  
6 chain?

7 MS. TABACCHI: Object to the  
8 form.

9 THE WITNESS: So if it was  
10 elevated to me outside of -- logistics  
11 compliance did the initial evaluation,  
12 and then if it was elevated to me,  
13 that would be where my role started  
14 with evaluating an order of interest.

15 Q. (BY MR. INNES) And part of  
16 your job as director of controlled substances  
17 was to implement the Reddwerks enhancements;  
18 is that right?

19 A. To support the implementation  
20 of the Reddwerks enhancements.

21 Q. Okay.

22 A. Yes.

23 Q. And what was the -- what do you  
24 mean by "support"?

25 A. The logistics compliance team

1       was the owner of that project. I was  
2       assisting them with it.

3               Q.       And how did you assist them?

4               A.       I believe we talked about it  
5       before, with the process and how to get  
6       things completed and requested from ISD, and  
7       how to move system projects forward.

8               Q.       At any point in time as a  
9       director of controlled substances, did you  
10      have any interest in how the enhancements  
11      were working to flag orders of interest?

12              MS. TABACCHI: Object to the  
13      form.

14              THE WITNESS: Yes. I mean,  
15      whenever I would start to identify  
16      things that we could maybe adjust as  
17      we were building the system to make it  
18      more efficient or make more sense or  
19      work better from a process standpoint.

20              Q.       (BY MR. INNES) And what were  
21      those things?

22              A.       I don't remember specifically  
23      what they were.

24              Q.       Were any enhancements beyond  
25      the Reddwerks enhancements that we discussed

1 earlier, those -- the three -- are there any  
2 others?

3 MS. TABACCHI: Object to the  
4 form.

5 THE WITNESS: It would be  
6 things to help make those Reddwerks  
7 enhancements occur.

8 Q. (BY MR. INNES) What does that  
9 mean?

10 A. Let me see if I can think of an  
11 example.

12 Maybe changing the layout of a  
13 screen that the evaluator reviewed so they  
14 could better see information that they needed  
15 would be an example.

16 Q. Okay. Anything else?

17 A. I can't think of any other  
18 examples right now.

19 Q. So at no point were you engaged  
20 in making sure that the Reddwerks  
21 enhancements were capturing the proper  
22 orders?

23 MS. TABACCHI: Object to the  
24 form.

25 Q. (BY MR. INNES) Flagging the



1 proper orders of interest?

2 MS. TABACCHI: Same objections.

3 THE WITNESS: The enhancements  
4 were built to use the thresholds that  
5 were developed. The thresholds would  
6 be what captured the orders that we  
7 felt needed additional review.

8 Q. (BY MR. INNES) And those  
9 thresholds were developed again by who?

10 A. Mu Sigma.

11 Q. And were those thresholds  
12 ever -- aside from adjustments that you made  
13 through the threshold adjustment process,  
14 were those thresholds ever adjusted?

15 MS. TABACCHI: Object to the  
16 form.

17 THE WITNESS: We did refresh  
18 the data, the underlying data, but the  
19 concept behind the thresholds, I don't  
20 believe we modified it.

21 Aside from -- I think I  
22 mentioned there was a couple of drugs  
23 that we would adjust the specific  
24 threshold to make it make more sense  
25 in the 50 -- or the 5,000 dosage unit.

1 Q. (BY MR. INNES) And is that the  
2 liquid --

3 A. The liquid and then just the  
4 overall 5,000 dosage unit cap.

5 Q. So there was the two, there's  
6 the 5,000 dosage cap and the liquid?

7 A. Mm-hmm. (Witness nods.)

8 Q. And what do you mean by  
9 "refresh the data"?

10 A. So to calculate the thresholds,  
11 to find the three times the standard  
12 deviation, you have to put in historical  
13 data, because you're finding what is -- what  
14 are -- have they been ordering previously.

15 Q. Right.

16 A. So we did go through a process  
17 and used the same -- three times the standard  
18 deviation, but we used more updated data.

19 Q. Did you increase the data set?

20 MS. TABACCHI: Object to the  
21 form.

22 THE WITNESS: I don't remember  
23 if we increased it. We did newer  
24 data.

25 Q. (BY MR. INNES) Did you remove

1 the old data?

2 MS. TABACCHI: Object to the  
3 form.

4 THE WITNESS: I can't remember  
5 exactly what we removed.

6 Q. (BY MR. INNES) But you did  
7 remove something?

8 MS. TABACCHI: Object to the  
9 form.

10 THE WITNESS: I'm not positive.  
11 I think we just shifted the timeframe  
12 to a newer timeframe.

13 Q. (BY MR. INNES) Who was  
14 responsible for interfacing with Mu Sigma?

15 A. That happened before I was in  
16 role.

17 Q. But do you know the person who  
18 was responsible for Mu Sigma at Walmart?

19 MS. TABACCHI: Object to the  
20 form.

21 THE WITNESS: I think the  
22 logistics compliance team is the one  
23 who engaged them.

24 Q. (BY MR. INNES) So aside from  
25 knowing that the data was refreshed, the

1       three -- the standard deviation equation was  
2       used to develop the threshold, that's the  
3       extent of your knowledge of the creation of  
4       the Reddwerks threshold?

5                       MS. TABACCHI: Object to the  
6       form.

7                       THE WITNESS: Can you state  
8       that again?

9       Q.       (BY MR. INNES) What else do  
10      you know about the creation of the thresholds  
11      in Reddwerks other than the use of Mu Sigma  
12      and the resulting three standard deviations  
13      calculation?

14                      MS. TABACCHI: Object to the  
15      form.

16                      THE WITNESS: The other items  
17      that I referenced about the liquids,  
18      the 5,000 dosage unit cap. You know,  
19      those other adjustments that we made.

20      Q.       (BY MR. INNES) Did you ever  
21      do -- are you aware of or did the compliance  
22      team ever do an audit of the threshold  
23      evaluation?

24                      MS. TABACCHI: Object to the  
25      form.

1 THE WITNESS: An audit of our  
2 process?

3 MR. INNES: Yeah. Yes.

4 THE WITNESS: I can't remember.  
5 I can't remember one.

6 Q. (BY MR. INNES) Did you engage  
7 in any audits of the SOM program?

8 MS. TABACCHI: Object to the  
9 form.

10 THE WITNESS: I can't remember  
11 an audit.

12 Q. (BY MR. INNES) Could we go  
13 back to slide 3?

14 A. Sure.

15 Q. "All flags must be cleared  
16 before production on any item can begin so  
17 there's a limited time for evaluation."

18 What is "cleared before  
19 production"?

20 A. So an order that was flagged  
21 had to be resolved before the DC could begin  
22 their production on orders.

23 Q. So what does the word  
24 "production" mean in that sentence?

25 A. Actually start picking orders

1 to be shipped.

2 Q. Okay. So all flags must be  
3 cleared before an order can be shipped? Is  
4 that a fair statement?

5 A. Yes. Before it can move  
6 forward and be picked and shipped.

7 Q. And it says there's a limited  
8 time for evaluation. Is that right?

9 A. Mm-hmm. (Witness nods.)

10 Q. So I think one of the  
11 enhancements you described earlier was you  
12 increased the time.

13 A. Yes.

14 Q. Is that a -- is this the  
15 opportunity for improvement that was -- that  
16 that increase was directed towards?

17 MS. TABACCHI: Object to the  
18 form.

19 THE WITNESS: Yes.

20 Q. (BY MR. INNES) "No defined  
21 process for tracking why DC cuts or clears  
22 specific orders." What does that mean?

23 A. That's just referencing that we  
24 didn't have a standard process for the  
25 distribution center to take notes or document

1 a reason why they would cut an order or clear  
2 an order. We just didn't have a good process  
3 for them to document the reasons why they  
4 made their decisions.

5 Q. Okay.

6 Were the -- did the Reddwerks  
7 enhancements address the area of improvement  
8 articulated in bullet point No. 1?

9 A. The Reddwerks enhancements -- I  
10 don't know if we ever looked at the number  
11 before and after. The Reddwerks  
12 enhancements, because of the thresholds were  
13 specifically tailored to individual  
14 pharmacies, were intended to be more focused.  
15 Because you could do a different threshold  
16 for an individual pharmacy and an individual  
17 drug.

18 Q. Were the Reddwerks enhancements  
19 a statistical methodology?

20 A. Yes.

21 Q. They were?

22 A. Yes.

23 (Walmart Johnson Deposition  
24 Exhibit 6 was marked for  
25 identification.)

1 [Document review.]

2 THE WITNESS: Okay.

3 Q. (BY MR. INNES) Okay. So this  
4 is an email from Miranda Johnson to  
5 Michael Fischer.

6 Ms. Johnson, who is  
7 Mr. Fischer?

8 A. He works in health and wellness  
9 operations. He's an industrial engineer  
10 lead.

11 Q. Okay. Halfway down the page  
12 Mr. Fischer writes to you asking, "What was  
13 the process for monitoring orders before this  
14 project was implemented?"

15 Based on this email chain, do  
16 you know what project he's referring to?

17 A. It would have been Buzzeo.

18 Q. Okay. And in response you  
19 said, "We used a different tool that was  
20 based on static thresholds."

21 Which tool are you referring to  
22 there?

23 A. That would have been referring  
24 to Reddwerks.

25 Q. "This tool" -- again,



1 Reddwerks -- "incorporated a statistical  
2 model and grouped drug classes together so we  
3 could better identify concerns." Is that  
4 right?

5 A. Did you just say "This tool,  
6 Reddwerks"? Is that what you said?

7 Q. I said, yeah. Are you  
8 referring to Reddwerks or are you referring  
9 to Buzzeo there?

10 A. I'm referring to Buzzeo there.

11 Q. You're referring to Buzzeo  
12 there. Okay. So Buzzeo included a  
13 statistical model, but Reddwerks did not?

14 MS. TABACCHI: Object to the  
15 form.

16 THE WITNESS: Reddwerks did not  
17 have a built-in statistical model, but  
18 the thresholds were developed based on  
19 a statistical methodology, the three  
20 times standard deviation that we've  
21 already talked about.

22 Q. (BY MR. INNES) But once placed  
23 into the Reddwerks platform, they're static;  
24 is that right?

25 MS. TABACCHI: Object to the

1 form.

2 THE WITNESS: It was a  
3 threshold that would only be changed  
4 if we went in and modified it for a  
5 reason.

6 Q. (BY MR. INNES) And why the  
7 change to a tool that incorporated a  
8 statistical model?

9 MS. TABACCHI: Object to the  
10 form.

11 THE WITNESS: As I've  
12 mentioned, we've been focused on  
13 continuous improvement. And so when  
14 we learned about Buzzeeo and the model  
15 that was built in, we thought it was a  
16 good tool to move to.

17 Q. (BY MR. INNES) And when did  
18 you first learn about Buzzeeo?

19 A. I believe it was late 2014,  
20 early 2015 maybe that I first heard of  
21 Buzzeeo.

22 Q. Okay. And if we can go back to  
23 the PowerPoint. And specifically slide 4 of  
24 the deck. It's called a strategy overview.

25 There's a phrase "continuous

1 improvement." Okay?

2 So Phase 1 is system  
3 enhancements. Are those Reddwerks  
4 enhancements you're talking about?

5 A. I believe that's what it's  
6 referencing.

7 Q. Okay. "Process  
8 implementation," do you know what that's  
9 referring to?

10 A. Implementing the new process  
11 that connected to the Reddwerks enhancements.

12 Q. "Data monitoring, manual."  
13 What's that referring to?

14 A. I'm not sure.

15 Q. If you look directly across the  
16 page, in Phase 2 it says, "Data monitoring  
17 augmented."

18 Do you know what that refers  
19 to?

20 A. I don't.

21 Q. Is -- do you know if the "data  
22 monitoring, manual," that's a manual review  
23 of data? Is that your take on that?

24 MS. TABACCHI: Object to the  
25 form.

1 THE WITNESS: I don't remember.

2 Q. (BY MR. INNES) Was it part of  
3 your job as director of controlled substances  
4 to -- well, how, if at all, were you involved  
5 as director of controlled substances in this  
6 phased program for suspicious order  
7 monitoring?

8 MS. TABACCHI: Object to the  
9 form.

10 THE WITNESS: I would have been  
11 involved in the development of the  
12 proposal, along with others.

13 Q. (BY MR. INNES) At any point in  
14 time did you engage in any development of  
15 automated data monitoring?

16 MS. TABACCHI: Object to the  
17 form.

18 THE WITNESS: I don't remember  
19 what this is referencing, so I can't  
20 say.

21 Q. (BY MR. INNES) If I can direct  
22 your attention to slide 6.

23 Can you describe for me what's  
24 going on in this graphic?

25 A. I believe this is just a

1 visualization of the process.

2 Q. What process is that?

3 A. The order monitoring process.

4 Q. Okay. And is that the order  
5 monitoring process that exists in October of  
6 '14?

7 A. This says Phase 1, so it would  
8 have been the Phase 1 order monitoring  
9 process.

10 Q. And has that been implemented  
11 at this point, or is this being piloted and  
12 rolled out?

13 MS. TABACCHI: Object to the  
14 form.

15 THE WITNESS: On slide 4,  
16 Phase 1 references the Reddwerks  
17 enhancements, so this would have been  
18 the process with the Reddwerks  
19 enhancements.

20 Q. (BY MR. INNES) I want to  
21 direct your attention to slide 8. This is  
22 Phase 2.

23 And what does this depict?

24 A. The process for order  
25 monitoring, and it looks like the change on

1       this one is that Buzzeeo was the filter.

2               Q.       Okay. So was the plan in  
3       October of 2014 to move from Reddwerks  
4       enhancements in Phase 1 to Phase 2 with a  
5       Buzzeeo or Buzzeeo-like system?

6               A.       That was the proposal.

7               Q.       Okay. Was that proposal  
8       ultimately implemented?

9                       MS. TABACCHI: Object to the  
10       form.

11                      THE WITNESS: Yes. Because we  
12       did move to Buzzeeo.

13               Q.       (BY MR. INNES) I want you to  
14       go all the way to the end to appendix  
15       page 10, and 11 is the actual appendix.

16                      What is -- what does this  
17       represent, do you know?

18               A.       This graphic was to help  
19       individuals who were maybe not familiar with  
20       order monitoring understand the difference  
21       between a threshold and a hard limit.

22               Q.       Could you educate me on the  
23       difference between a threshold and a hard  
24       limit?

25               A.       Yes. So a threshold is an

1 amount that if an order exceeds the  
2 threshold, additional evaluation would be  
3 warranted to determine if it was suspicious.

4 A hard limit is just a limit  
5 where, as a company, you would decide we are  
6 not going to ship over X amount.

7 Q. And did Walmart ever set a hard  
8 limit for any Schedule II or Schedule IIIs?

9 A. I believe you could consider  
10 some of the 20 -- or Oxy 30, 20 bottles, a  
11 hard limit.

12 Q. Okay. Anything other than  
13 those?

14 A. That's all that I recall.

15 Q. Out of curiosity, how many --  
16 are you aware how many different dosages of  
17 Oxy Walmart dispensed or -- I'm sorry,  
18 distributed?

19 MS. TABACCHI: Object to the  
20 form.

21 THE WITNESS: What do you mean  
22 by "different dosages"?

23 Q. (BY MR. INNES) An Oxy 5, an  
24 Oxy 10.

25 MS. TABACCHI: Object to the

1 form.

2 THE WITNESS: I'm not familiar  
3 with all the various variations we had  
4 in our distribution centers.

5 Q. (BY MR. INNES) As the director  
6 of controlled substances that controlled --  
7 the controls you had that are distributed,  
8 that wasn't something that you had ready --  
9 readily available to you?

10 MS. TABACCHI: Object to the  
11 form.

12 THE WITNESS: I would have had  
13 it readily available to me to review  
14 what drugs we distributed. I just  
15 can't list what all variations of all  
16 of the drugs we did -- controlled  
17 substances we distributed at this  
18 time.

19 Q. (BY MR. INNES) Do you have any  
20 idea why Walmart singled out that particular  
21 Oxy 30 as one that it would limit to  
22 20 bottles?

23 A. I don't. That occurred before  
24 I was in role.

25 Q. And did that continue -- how



1 long did that continue for, that hard limit?

2 A. That would have continued until  
3 we implemented the Reddwerks enhancements.

4 Q. So the Reddwerks enhancements  
5 come online and the hard limits stop?

6 MS. TABACCHI: Object to the  
7 form.

8 THE WITNESS: Yes.

9 Q. (BY MR. INNES) Does the same  
10 apply for the 50 bottles?

11 A. Yes.

12 Q. And the same applies for the  
13 greater than 30 percent increase over the  
14 rolling four-week average?

15 A. Yes.

16 (Walmart Johnson Deposition  
17 Exhibit 7 was marked for  
18 identification.)

19 [Document review.]

20 THE WITNESS: Okay.

21 Q. (BY MR. INNES) What is the  
22 attachment to this document? To this email.  
23 I'm sorry.

24 A. It looks like a spreadsheet  
25 with threshold calculations.

1           Q.       And again, this is an email  
2       from Roxy Reed to you, Miranda Johnson, on  
3       December 4, 2014.

4                   Why is Roxy sending you the  
5       threshold calculations?

6           A.       I don't know why she sent them  
7       this particular time.

8           Q.       Was it common for Roxy to send  
9       you threshold calculations?

10                   MS. TABACCHI: Object to the  
11       form.

12                   THE WITNESS: It wasn't  
13       uncommon because we had to upload  
14       their thresholds into Reddwerks.

15           Q.       (BY MR. INNES) And were you in  
16       charge of uploading them to Reddwerks?

17                   MS. TABACCHI: Object to the  
18       form.

19                   THE WITNESS: I uploaded them  
20       into Reddwerks. Roxy did it some. I  
21       believe there were members of the  
22       logistics compliance team that may  
23       have done it as well.

24           Q.       (BY MR. INNES) And as I  
25       understand it, Reddwerks is a third-party

1 vendor; is that right?

2 MS. TABACCHI: Object to the  
3 form.

4 THE WITNESS: Yes.

5 MR. INNES: Okay.

6 Q. (BY MR. INNES) And Walmart  
7 supplied Reddwerks with the threshold  
8 calculations?

9 MS. TABACCHI: Object to the  
10 form.

11 THE WITNESS: Walmart did the  
12 calculations. We had a spreadsheet  
13 with the threshold that we were able  
14 to upload into the Reddwerks system.

15 MR. INNES: Okay.

16 Q. (BY MR. INNES) Who was  
17 responsible at Walmart for actually  
18 generating the threshold calculations?

19 MS. TABACCHI: Object to the  
20 form.

21 THE WITNESS: Roxy.

22 MR. INNES: Roxy?

23 THE WITNESS: Reed.

24 Q. (BY MR. INNES) And did you  
25 ever check Roxy's math?

1           A.       I don't remember if I did or  
2       not.

3           Q.       So you just accepted Roxy's  
4       calculations as proper and uploaded them to  
5       Reddwerks; is that right?

6           A.       I just said I don't remember if  
7       I checked her math or not, so I --

8                   I mean, I understood how she  
9       did it, and I may have checked the math.

10          Q.       Do you remember any case --  
11       anytime when you did change her math?

12          A.       I don't remember.

13          Q.       Is it possible that you ever  
14       changed her math?

15                   MS. TABACCHI: Object to the  
16       form.

17                   THE WITNESS: It is possible.

18          Q.       (BY MR. INNES) It's possible?

19          A.       Mm-hmm. (Witness nods.)

20          Q.       Why do you say that?

21          A.       Because it's possible that I  
22       reviewed it and something didn't make sense  
23       to me, so I asked her about it and we made  
24       modifications.

25          Q.       Okay. I think you testified

1 earlier that you didn't know how to calculate  
2 the standard deviation; is that right?

3 A. That's correct.

4 Q. Okay. So without knowing how  
5 to calculate the standard deviation, how  
6 would you go about making adjustments to this  
7 threshold -- threshold calculation?

8 MS. TABACCHI: Object to the  
9 form.

10 THE WITNESS: So even though I  
11 can't calculate the standard  
12 deviation, I can still review the  
13 final thresholds and see if they make  
14 sense.

15 Q. (BY MR. INNES) Okay. So is  
16 the -- is there one file that is uploaded to  
17 Reddwerks for threshold calculations that  
18 also includes those that have been manually  
19 adjusted by your team?

20 MS. TABACCHI: Object to the  
21 form.

22 THE WITNESS: I'm not sure I  
23 understand what you're asking.

24 Q. (BY MR. INNES) You testified  
25 earlier that you would manually adjust

1 thresholds.

2 A. After a threshold evaluation.

3 Q. After a threshold evaluation?

4 A. Yes.

5 Q. How are those thresholds  
6 uploaded to Reddwerks?

7 MS. TABACCHI: Object to the  
8 form.

9 THE WITNESS: They would be  
10 updated in the threshold file, and  
11 then the threshold file would be  
12 re-uploaded into Reddwerks.

13 Q. (BY MR. INNES) Is that  
14 threshold file different than the threshold  
15 calculation file that you see here in  
16 Exhibit 7?

17 MS. TABACCHI: Object to the  
18 form.

19 THE WITNESS: Yes. It would  
20 not have included all of this detail.

21 MR. INNES: Okay.

22 Q. (BY MR. INNES) So if -- when  
23 Roxy would send you these threshold  
24 calculations documents, like, for example,  
25 Exhibit 7, you'd review them? Is that right?

1 MS. TABACCHI: Object to the  
2 form.

3 THE WITNESS: Yes. I'm sure I  
4 looked at the document.

5 Q. (BY MR. INNES) Okay. And  
6 sometimes you would make adjustments to them?  
7 To the document?

8 A. No. I may ask her questions if  
9 something that I saw didn't look right.

10 Q. And how could you tell it  
11 didn't look right?

12 A. If a threshold looked off, I  
13 could ask her a question and understand --  
14 you know, have her go back and check that it  
15 worked correctly.

16 Q. And is it a note when you see  
17 when it looks off? Or are you looking for a  
18 particular level or a particular number?

19 MS. TABACCHI: Object to the  
20 form.

21 THE WITNESS: There was not a  
22 particular number. It was a, you  
23 know, understanding what the drug is,  
24 what does it look like. You could see  
25 if something was an anomaly or looked

1 unusual.

2 Q. (BY MR. INNES) Okay. And are  
3 these -- these represent individual orders  
4 from individual pharmacies? Is that what  
5 we're looking at?

6 MS. TABACCHI: Object to the  
7 form.

8 THE WITNESS: This does not  
9 represent orders.

10 Q. (BY MR. INNES) Okay. What  
11 does this represent? This represents  
12 thresholds?

13 A. This represents a threshold  
14 calculation.

15 Q. And is it a threshold for a  
16 particular pharmacy?

17 MS. TABACCHI: Object to the  
18 form.

19 THE WITNESS: It looks like  
20 thresholds for many different  
21 pharmacies.

22 Q. (BY MR. INNES) And how many  
23 pharmacies does Walmart have?

24 MS. TABACCHI: Object to the  
25 form.



1 THE WITNESS: Around 4,000.

2 Q. (BY MR. INNES) So in, let's  
3 say, December of 2014, there's 4,000  
4 different pharmacies. And each one of those  
5 pharmacies has a unique threshold; is that  
6 right?

7 MS. TABACCHI: Object to the  
8 form.

9 THE WITNESS: Yes, a threshold  
10 is created for that specific pharmacy.

11 Q. (BY MR. INNES) And so when you  
12 reviewed a calculation file such as this one,  
13 you could expect to see how many rows of  
14 data?

15 MS. TABACCHI: Object to the  
16 form.

17 THE WITNESS: It depended on  
18 what the calculation file encompassed.

19 Q. (BY MR. INNES) And on the low  
20 end, how many would you see?

21 MS. TABACCHI: Object to the  
22 form.

23 THE WITNESS: I guess it would  
24 depend on what we were recalculating  
25 thresholds for.

1           Q.       (BY MR. INNES) So if you  
2       recalculated the thresholds for -- strike  
3       that.

4                   How often did you recalculate  
5       thresholds?

6           A.       Thresholds would be calculated  
7       for a new pharmacy, or, as I mentioned, we  
8       refreshed the thresholds with newer data.

9                   Those are the times I can think  
10      of that we would calculate thresholds.

11                  MS. TABACCHI: I'd just like to  
12      note for the record that Exhibit 7 and  
13      the attachment that was printed from  
14      the native format is -- appears to be  
15      just a portion, an excerpt.

16                  MR. INNES: Yeah, I'm sorry. I  
17      should have noted -- well, I can tell  
18      you. It was a really big document,  
19      and I didn't have enough boxes for any  
20      of this, so ...

21                  MS. TABACCHI: That's fine. I  
22      just wanted to get clear that this is  
23      not the entire file.

24                  MR. INNES: This is not the  
25      entire document. This was printed as

1 a representative to show the columns  
2 and the different data that we can  
3 see.

4 Q. (BY MR. INNES) My last  
5 question on this is, is this an Excel file  
6 that I would expect to see equations in?

7 MS. TABACCHI: Object to the  
8 form.

9 THE WITNESS: I don't believe  
10 so, because I believe the calculations  
11 were done by another tool that was  
12 more advanced than Excel, and then the  
13 result was, you know, put into Excel.

14 Q. (BY MR. INNES) So this file --  
15 and I can represent to you we didn't find any  
16 equations in it.

17 A. Okay.

18 Q. So to cut to the chase, this is  
19 an export file from some other database that  
20 does the calculation?

21 A. Yes.

22 Q. Do you know the name of that  
23 database?

24 A. It may have been Alteryx that  
25 did this.

1 Q. So Alteryx was used at some  
2 point in time to do -- to do this.

3 Do you know what time -- what  
4 period of time it was used for?

5 A. I said it may have been. I'm  
6 not positive.

7 Yeah, I'm not positive.

8 Q. Any other programs that may  
9 have been used?

10 MS. TABACCHI: Object to the  
11 form.

12 THE WITNESS: I know Roxy used  
13 Access for some things, but I don't  
14 know if Access could do this type of  
15 calculation.

16 Q. (BY MR. INNES) And the person  
17 to ask about how this calculation was done,  
18 that would be Roxy?

19 A. Yes.

20 Q. Anyone else who would know  
21 about how the calculation was done?

22 A. Not that I can think of.

23 (Walmart Johnson Deposition  
24 Exhibit 8 was marked for  
25 identification.)

1 [Document review.]

2 MR. INNES: While you're  
3 reviewing that, I'll represent this is  
4 a similar -- we pulled the native and  
5 we only produced -- and I only printed  
6 the -- a representative page.

7 THE WITNESS: Okay.

8 Q. (BY MR. INNES) Okay. This is  
9 an email from Kristy Spruell to -- I'll just  
10 butcher this. I'll spell it. B-H-U-P-E-N  
11 A-H-U-J-A.

12 Copied on that email are Ramona  
13 Sullins, Theresa Alford, Miranda Johnson, and  
14 Miranda Gan. It was sent at 4:29 on  
15 October 28, 2014. Subject matter is "SOM  
16 threshold and order files," and there's an  
17 attachment with an example SOM threshold  
18 file-dummy data-CSV.

19 Who -- who is Kristy Spruell?

20 A. She worked in logistics.

21 Q. And what was her role in  
22 logistics?

23 A. The senior manager of strategy,  
24 compliance safety, and asset protection.

25 Q. And I see that's her title.

1       What did she -- what did she do in that --  
2       what was it -- what were the responsibilities  
3       of that title?

4                   MS. TABACCHI: Object to the  
5       form, lack of foundation.

6                   THE WITNESS: Yeah, I don't  
7       know all of her responsibilities. My  
8       interaction with her was related to  
9       the order monitoring program.

10           Q.       (BY MR. INNES) And can you  
11       describe that interaction in some detail?

12                   MS. TABACCHI: Object to the  
13       form.

14           Q.       (BY MR. INNES) How did you  
15       interact with her?

16                   MS. TABACCHI: Object to the  
17       form.

18                   THE WITNESS: She was -- she  
19       was the logistics compliance support  
20       for the SOM program.

21           Q.       (BY MR. INNES) She's in  
22       logistics compliance, and her role in  
23       logistics compliance as it related to you  
24       was -- well, I'm sorry, your interaction was  
25       limited to the SOM program with Kristy; is

1       that right?

2               A.       Yes.   That's what I worked with  
3       her on.

4               Q.       And do you have any idea who  
5       she's referring to as her technical support  
6       partner?

7               A.       I believe she may be  
8       referencing Roxy.

9               Q.       Okay.   And Roxy's in your  
10       department; is that right?

11              A.       Not at this time.

12              Q.       Not at this time.   Where is  
13       Roxy at this time?

14              A.       She is on a health and wellness  
15       compliance team that did analytics.

16              Q.       Okay.   Who else was on that  
17       team during that time period?

18                      MS. TABACCHI:   Object to the  
19       form.

20                      THE WITNESS:   I don't remember  
21       who else was on the team.

22              Q.       (BY MR. INNES)   Did those folks  
23       report to you?

24              A.       No.

25              Q.       No?

1 A. They did not.

2 Q. Do you know what sort of  
3 analytics that team was engaged in?

4 MS. TABACCHI: Object to the  
5 form.

6 THE WITNESS: They would have  
7 supported the health and wellness  
8 compliance organization, so I don't  
9 know what all they would have done.

10 Q. (BY MR. INNES) Do you have any  
11 idea what they would have done, if anything,  
12 regarding Schedule IIs or Schedule IIIs?

13 MS. TABACCHI: Object to the  
14 form. Lack of foundation.

15 THE WITNESS: I'm not aware of  
16 anything they did related to IIs or  
17 IIIs other than I know she supported  
18 the threshold calculations.

19 Q. (BY MR. INNES) And again, the  
20 threshold calculations during this time  
21 period were those that were developed by  
22 Mu Sigma, three times the standard deviation?

23 MS. TABACCHI: Object to the  
24 form.

25 THE WITNESS: Yes. Yes. The



1 formula was developed by Mu Sigma.

2 MR. INNES: Why don't we take a  
3 5-, 10-minute break and let me sort of  
4 organize the last portion, see if we  
5 can continue.

6 MS. TABACCHI: I'm all for  
7 that. Sounds good.

8 VIDEOGRAPHER: Going off the  
9 record at 3:56 p.m.

10 (Recess taken, 3:57 p.m. to  
11 4:11 p.m.)

12 VIDEOGRAPHER: We are back on  
13 the record at 4:11 p.m.

14 Q. (BY MR. INNES) Okay,  
15 Ms. Johnson. I want to -- let's shift gears  
16 slightly --

17 A. Okay.

18 Q. -- and move forward in time.

19 At some point Walmart made the  
20 decision to switch to -- from the Reddwerks  
21 enhanced SOM model to the Buzzeo model; is  
22 that correct?

23 A. Yes.

24 Q. And what was -- what was the  
25 decision -- why was the decision made to make

1       that change?

2                       MS. TABACCHI:   Object to the  
3               form.

4                       THE WITNESS:   As I mentioned,  
5               we were -- our group was wanting  
6               continuous improvement, and so we felt  
7               that Buzzeo could help continue to  
8               improve our program.

9               Q.       (BY MR. INNES)   And what  
10              improvements did Buzzeo offer?

11              A.       So it was earlier in our order  
12              process, so we could review orders sooner.  
13              It was -- I mentioned it had this built-in  
14              statistical model, so there was not a need to  
15              manage and update a threshold file.

16                      It also just made it easier for  
17              the individuals doing an evaluation to see  
18              information about the stores' orders, because  
19              it was all right there in front of them.

20              Q.       So let's unpack that a little  
21              bit.   And I'll start at the top.

22                      You could review orders sooner.

23              A.       Mm-hmm.   (Witness nods.)

24              Q.       How -- what do you mean by  
25              that?

1           A.       So -- I'm going to have to  
2       explain a little bit about how orders flow.

3           Q.       Sure.

4           A.       When a -- an order is placed,  
5       it is -- orders from one day are kind of  
6       pulled together and then submitted to the DC.

7                   The Buzzeo tool in -- when we  
8       were using Reddwerks, Reddwerks was at DC  
9       level, and so those orders didn't get to the  
10      Reddwerks tool to flag or preview until the  
11      orders were sent to the DC. The Buzzeo tool  
12      was basically slotted in earlier in the  
13      process, so any of the orders that got to the  
14      DC had already gone through the Buzzeo tool.  
15      So it just happened earlier in the process,  
16      from an order-routing standpoint.

17          Q.       Okay. So order goes through  
18      the Buzzeo. Is it an algorithm?

19                   MS. TABACCHI: Object to the  
20      form.

21                   THE WITNESS: Yes. There was  
22      an algorithm inside Buzzeo that  
23      reviewed the orders.

24                   MR. INNES: Okay.

25          Q.       (BY MR. INNES) So an order

1 goes to Buzzeo. And then are orders -- it  
2 only flags orders of interest; is that it?

3 A. Yes.

4 Q. And the orders that are not  
5 deemed to be orders of interest, what happens  
6 to them?

7 A. They went ahead and went to the  
8 distribution center for fulfillment.

9 Q. And was there a secondary  
10 review of those at all, after Buzzeo?

11 MS. TABACCHI: Object to the  
12 form.

13 THE WITNESS: There wasn't  
14 another order monitoring process.

15 Q. (BY MR. INNES) Were there any  
16 periodic reviews to make sure that -- to make  
17 sure that the Buzzeo algorithm was flagging  
18 the proper orders?

19 A. We did a lot of reviews of what  
20 was -- we could see in there in the system  
21 what was system cleared, which meant it went  
22 through the algorithm without stopping, and  
23 because the tool was new, we monitored that  
24 fairly closely.

25 Q. (BY MR. INNES) And what do you

1 mean by "monitored very closely"?

2 A. We would look at the orders  
3 that were system cleared to make sure that  
4 there wasn't anything we saw in there that we  
5 thought was -- should not have been system  
6 cleared.

7 Q. And who is "We"?

8 A. The individuals on the team  
9 that were evaluating the orders.

10 Q. And who were those individuals?

11 A. I can't list them all, but it  
12 was myself, Roxy Reed. We had a number of  
13 analysts and then some pharmacists that were  
14 also helping with the evaluation process.

15 Q. And how many folks total were  
16 working on that team, do you think?

17 A. I believe we had 20 -- 20-ish  
18 individuals total. Some of them were working  
19 on order monitoring. Some of them were  
20 working on other things. Some of them were  
21 kind of working on both. But in total, we  
22 had about 20, between 20 and 25 individuals  
23 on the team.

24 Q. Did you ever look at how many  
25 people hours were devoted to suspicious order

1 monitoring on your team?

2 MS. TABACCHI: Object to the  
3 form.

4 THE WITNESS: I'm sure I did,  
5 because we were trying to determine  
6 how many people we needed to properly  
7 staff the team.

8 Q. (BY MR. INNES) Do you have any  
9 communications or documents related to that  
10 analysis?

11 MR. INNES: I think the phone  
12 was accidentally left on mute. We've  
13 been going for about -- what would you  
14 say, four minutes now?

15 So we'll continue.

16 Q. (BY MR. INNES) I think we  
17 still have a question open.

18 A. Okay, sorry. Can you repeat  
19 that?

20 Q. Do you have any communications  
21 or documents related to that analysis?

22 MS. TABACCHI: Object to the  
23 form.

24 THE WITNESS: I don't know. I  
25 may.

1 Q. (BY MR. INNES) Would anyone  
2 else?

3 A. Possibly.

4 Q. Who would those people be?

5 MS. TABACCHI: Object to the  
6 form.

7 THE WITNESS: I could have had  
8 Roxy help with some numbers of, you  
9 know, how long things were taking, did  
10 we have the right number of people,  
11 that kind of thing.

12 Q. (BY MR. INNES) Was there any  
13 point in time when you didn't think you had  
14 the right number of people?

15 MS. TABACCHI: Object to the  
16 form.

17 THE WITNESS: No. I mean, by  
18 the time we rolled over the  
19 enhancements, we had -- we were fully  
20 staffed and had the support we needed.

21 Q. (BY MR. INNES) The Reddwerks  
22 enhancements?

23 A. The Buzzeo enhancements.

24 Q. So over the course of your  
25 tenure as the director of controlled

1 substances, how -- what was the low watermark  
2 for people on your staff and the high  
3 watermark for folks on your staff?

4 MS. TABACCHI: Object to the  
5 form.

6 THE WITNESS: So directly  
7 reporting up to me.

8 Q. (BY MR. INNES) Well, those  
9 that were directly reporting up to you who  
10 were involved in the SOMs.

11 MS. TABACCHI: Object to the  
12 form.

13 THE WITNESS: So initially in  
14 my role it was myself, then Roxy  
15 joined.

16 And then we talked about where  
17 we were towards the end.

18 (Walmart Johnson Deposition  
19 Exhibit 9 was marked for  
20 identification.)

21 [Document review.]

22 MR. INNES: You absolutely take  
23 your time reviewing it. I'm not going  
24 to have any detailed questions about  
25 it.



1 THE WITNESS: Okay.

2 Q. (BY MR. INNES) I just want to  
3 know if it's something that you recognize.

4 A. Yes, I do recognize it.

5 Q. And can you tell me what this  
6 is?

7 A. This is the document that  
8 QuintilesIMS/Buzzeo provided to us that  
9 explained the statistical model that was  
10 developed for our use within Buzzeo.

11 (Discussion off the record.)

12 Q. (BY MR. INNES) And is -- to  
13 your understanding, is this the actual  
14 algorithm that was used?

15 MS. TABACCHI: Object to the  
16 form.

17 THE WITNESS: Yes. It's my  
18 understanding.

19 Q. (BY MR. INNES) Are you  
20 familiar with the term "stress bars" as it  
21 relates to Buzzeo?

22 A. Yes. I am.

23 Q. Can you tell me what stress  
24 bars are?

25 A. They're -- basically when an

1 order was pended, you could look at the order  
2 and the bars would show -- help you  
3 understand why the order was pended.

4 Q. And how would --

5 A. This is the easiest way to  
6 explain it, sorry.

7 Q. And how would they help you  
8 understand why it was pended?

9 A. You could see -- I can't  
10 remember all of their criteria, but you could  
11 see that if it was an order that, for  
12 example, was larger than the last 30 days,  
13 the stress bar would show green, yellow, red,  
14 how much larger it was.

15 Q. Were you involved in any way in  
16 the development of the algorithm that Buzzco  
17 ultimately offered?

18 MS. TABACCHI: Object to the  
19 form.

20 THE WITNESS: We provided them  
21 order data that they used to develop  
22 the algorithm.

23 Q. (BY MR. INNES) Okay. And what  
24 sort of order data did you provide them?

25 MS. TABACCHI: Object to the

1 form.

2 THE WITNESS: Data on what our  
3 pharmacies had ordered historically.

4 Q. (BY MR. INNES) Do you know  
5 the range of that historical data? Date  
6 range of that historical data?

7 MS. TABACCHI: Object to the  
8 form.

9 THE WITNESS: I think it may  
10 have been two years. I'm not  
11 positive.

12 Q. (BY MR. INNES) Is that all  
13 that Buzzeo required was two years' worth of  
14 what your pharmacies had ordered?

15 A. I believe we provided what they  
16 requested, so ...

17 Q. Do you know what else they  
18 requested, if anything?

19 A. I don't remember anything other  
20 than order data.

21 Q. Who was involved in selecting  
22 Buzzeo?

23 A. There were many people  
24 involved.

25 We went through an RFP process.

1       There were individuals from compliance,  
2       individuals from logistics involved in making  
3       the final decision.

4               Q.       Were you one of the people  
5       involved in making the final decision?

6               A.       Making the recommendation, yes.

7               Q.       Making the recommendation.  
8                       And why did you ultimately --  
9       well, did you recommend Buzzeeo?

10              A.       Yes, I did.

11              Q.       And why did you recommend  
12       Buzzeeo?

13              A.       Of the vendors that we were  
14       provided with through the RFP, they had the  
15       most experience with order monitoring and the  
16       one most able to support a business the size  
17       of Walmart.

18              Q.       Who are the other vendors that  
19       you considered?

20              A.       I can't remember their names.

21              Q.       How many others?

22              A.       I believe there were two or  
23       three that -- that got to the point that I  
24       was reviewing them.

25              Q.       Did you -- during that RFP

1 process -- is that a request for proposal?

2 A. Yes.

3 Q. During that RFP process, did  
4 you engage a third party to help with that  
5 search?

6 A. There's a group within our  
7 information systems division that manages the  
8 RFP process for systems projects. I don't  
9 know if they engaged a third party or not.

10 Q. Do you know if they engaged  
11 Deloitte? A company named Deloitte?

12 A. I don't know if they engaged  
13 Deloitte.

14 (Walmart Johnson Deposition  
15 Exhibit 10 was marked for  
16 identification.)

17 [Document review.]

18 THE WITNESS: Okay.

19 Q. (BY MR. INNES) So this is an  
20 email string from sharty@us.imshealth.com to  
21 Roxy Reed, Eric Welch and Miranda Johnson.  
22 Copied on there is gglotz@us.imshealth.com.

23 In the middle of the page is --  
24 it's the second-to-the-last email in the  
25 chain dated May 26, 2016. It's from

1       Roxy Reed to some other folks, Scott Hardy.

2       Do you know who Scott Hardy is?

3             A.       Yes. He was our -- basically  
4       our project manager on -- for Buzzeo.

5             Q.       And he's a Walmart employee?

6             A.       No. He's on Buzzeo's side.

7             Q.       Did you have direct  
8       interactions with Mr. Hardy regarding Buzzeo?

9             A.       Yes.

10            Q.       Okay. And what do those  
11       interactions consist of?

12                    MS. TABACCHI: Object to the  
13       form.

14                    THE WITNESS: As I mentioned,  
15       he's our project manager, so we had  
16       regular interactions on the  
17       implementation of Buzzeo.

18            Q.       (BY MR. INNES) Did you discuss  
19       your goals with -- goals for Buzzeo with  
20       Mr. Hardy?

21                    MS. TABACCHI: Object to the  
22       form.

23                    THE WITNESS: I don't know.

24            Q.       (BY MR. INNES) What were your  
25       goals with Buzzeo?

1 MS. TABACCHI: Object to the  
2 form.

3 THE WITNESS: As I mentioned,  
4 it was part of our continuous  
5 improvement to roll out a system that  
6 we thought could provide enhancements.

7 Q. (BY MR. INNES) So you wanted  
8 to roll out a better system than what you had  
9 in place?

10 MS. TABACCHI: Object to the  
11 form.

12 THE WITNESS: Yes. In some  
13 aspects it was better. I think we  
14 talked about some of the enhancements  
15 that it provided.

16 Q. (BY MR. INNES) Before Buzzeo,  
17 was it your understanding that the  
18 Reddwerks -- enhanced Reddwerks was --  
19 functioned properly as an SOM?

20 MS. TABACCHI: Object to the  
21 form.

22 THE WITNESS: Yes, I believe it  
23 functioned properly.

24 Q. (BY MR. INNES) Did you ever do  
25 an analysis comparing Buzzeo's performance to

1 Reddwerks' enhanced performance?

2 MS. TABACCHI: Object to the  
3 form.

4 THE WITNESS: I don't remember  
5 doing one.

6 Q. (BY MR. INNES) Did Buzzeo flag  
7 more orders as orders of interest than  
8 Reddwerks enhanced did?

9 MS. TABACCHI: Object to the  
10 form.

11 THE WITNESS: I don't remember  
12 exactly, but I believe that it did.

13 Q. (BY MR. INNES) Who would know  
14 that information?

15 A. I don't know of anybody who  
16 would just know that.

17 Q. Did you retain historical data  
18 regarding orders of interest that were  
19 flagged by Buzzeo -- or I'm sorry, by  
20 Reddwerks enhanced?

21 MS. TABACCHI: Object to the  
22 form.

23 THE WITNESS: Yes, we  
24 documented the orders of interest in  
25 Archer, as I mentioned before.



1           Q.       (BY MR. INNES) And do you  
2 maintain records of orders of interest  
3 flagged by Buzzeeo?

4           A.       Yes, we have documentation of  
5 those in Archer as well.

6           Q.       So it would be possible to  
7 compare orders flagged by Reddwerks enhanced  
8 with orders flagged by Buzzeeo?

9                   MS. TABACCHI: Object to the  
10 form.

11                  THE WITNESS: I believe so.

12          Q.       (BY MR. INNES) But you've  
13 never done that?

14          A.       Not that I recall.

15          Q.       Have you ever run orders --  
16 historical orders that were placed prior to  
17 Buzzeeo being implemented through the Buzzeeo  
18 algorithm?

19                  MS. TABACCHI: Object to the  
20 form.

21                  THE WITNESS: We may have. I  
22 don't know. We may have done some  
23 during testing, small data sets. I  
24 can't remember if we did -- we used  
25 real orders or dummy data.

1 Q. (BY MR. INNES) Who would know  
2 the answer to that question?

3 A. It would probably be the people  
4 on the IT side that were working on the  
5 project.

6 Q. Who were those people?

7 A. Roxy may know. So it's the  
8 people referenced here.

9 Q. Which people referenced here?

10 A. The Scott Hardy, Eric Welch.  
11 Like I say, Roxy may know.

12 Q. Okay. I'm sorry, is Eric Welch  
13 a Walmart employee?

14 A. Yes.

15 Q. And what's his role?

16 A. He was on the IT side,  
17 supporting the implementation.

18 Q. Was Buzzco -- to your  
19 knowledge, was Buzzco available as a platform  
20 when you rolled out Reddwerks enhanced?

21 MS. TABACCHI: Object to the  
22 form.

23 THE WITNESS: Yes, to my  
24 knowledge it was.

25 Q. (BY MR. INNES) Was there a

1 reason why you didn't procure Buzzeo at that  
2 time?

3 MS. TABACCHI: Object to the  
4 form.

5 THE WITNESS: I don't know. At  
6 the time we were already moving  
7 forward with the process for the  
8 Reddwerks enhanced, and as I  
9 mentioned -- and you can see in that  
10 PowerPoint we were evaluating the  
11 potential for using Buzzeo at some  
12 point in the future.

13 Q. (BY MR. INNES) And were there  
14 any efforts to speed up that evaluation?

15 MS. TABACCHI: Object to the  
16 form.

17 THE WITNESS: In what  
18 timeframe?

19 Q. (BY MR. INNES) Well, if  
20 Walmart is continually -- working to  
21 continually improve, and you're -- and  
22 Walmart's aware of Buzzeo back in 2015, why  
23 isn't Walmart driving hard to get Buzzeo at  
24 that point?

25 MS. TABACCHI: Object to the

1 form.

2 THE WITNESS: Like I said, at  
3 that point we were moving forward with  
4 the Reddwerks enhanced upgrades and  
5 still evaluating Buzzeo or tools of  
6 Buzzeo to see if it was something that  
7 we wanted to move forward with.

8 Q. (BY MR. INNES) And at that  
9 point resources have already been devoted to  
10 Reddwerks enhancements?

11 A. We were already moving forward  
12 with that project.

13 Q. Okay. How long after Buzzeo  
14 was implemented did Walmart exit -- or did  
15 you become aware of Walmart's 's intention to  
16 exit the C-II/C-III distribution business?

17 MS. TABACCHI: Object to the  
18 form.

19 THE WITNESS: I believe it was  
20 a couple of months.

21 Q. (BY MR. INNES) Do you know why  
22 Walmart decided to cease distribution?

23 A. I was not part of that  
24 decision, so I don't.

25 Q. Were folks in your department

1       laid off as a result of that transition?

2                   MS. TABACCHI: Object to the  
3                   form.

4                   THE WITNESS: There were  
5                   individuals that no longer had a role.  
6                   Most of them found other roles within  
7                   the company.

8                   Q.       (BY MR. INNES) So the data  
9                   that you provided to Buzzeeo to support the  
10                  algorithm, did you provide shipped quantity?  
11                  Or ordered quantity? Or both? And I can  
12                  break that down if you want.

13                  A.       Okay.

14                  MS. TABACCHI: Object to the  
15                  form. Lack of foundation.

16                  THE WITNESS: So I do remember  
17                  that there were some challenges with  
18                  us getting -- finding the order  
19                  quantity because it wasn't something  
20                  that was maintained in the same way  
21                  shipped quantity was.

22                  I know we went back and forth  
23                  trying to find it somewhere in a  
24                  database. I can't remember if  
25                  ultimately we were able to find it.

1 I know at a minimum we did  
2 provide the shipped quantity. I just  
3 don't know if we were able to find a  
4 way to get the ordered quantity.

5 Q. (BY MR. INNES) So you did  
6 ultimately provide data to Buzzeeo to support  
7 their development of the algorithm?

8 A. Yes, we did.

9 Q. That -- did you provide shipped  
10 quantity data?

11 MS. TABACCHI: Object to the  
12 form. Asked and answered.

13 THE WITNESS: Yeah, I think I  
14 just mentioned, we did -- I know we  
15 provided them quantity shipped. We  
16 also may have found the quantity  
17 ordered. I just don't remember.

18 Q. (BY MR. INNES) So you provided  
19 shipped quantity. For what period of time --  
20 what duration of time shipped quantity were  
21 you able to provide?

22 A. I believe it was the 24 months  
23 that they requested.

24 Q. Okay. Who would know  
25 definitively how much -- what specific data

1 was provided to Buzzeo?

2 A. Roxy probably would know.

3 Q. Would Roxy also know whether or  
4 not ordered quantity was provided to Buzzeo?

5 A. She may remember, yes. Because  
6 she's the one working to pull the data  
7 together to provide them.

8 Q. Was there a reason why Walmart  
9 didn't obtain ordered quantity in a readily  
10 retrievable way?

11 MS. TABACCHI: Object to the  
12 form. Lack of foundation.

13 THE WITNESS: Yeah, I don't  
14 know.

15 Q. (BY MR. INNES) Is historical  
16 ordered quantity something you would be  
17 interested in knowing when doing a threshold  
18 evaluation?

19 MS. TABACCHI: Object to the  
20 form.

21 THE WITNESS: We were able to  
22 see it for a period of time, I  
23 believe, and we also have shipped  
24 quantity, so ...

25 Q. (BY MR. INNES) Well, for what

1 period of time were you able to see ordered  
2 quantity?

3 A. I believe this references we  
4 can see at least eight weeks.

5 Q. Eight weeks from the date of  
6 this email?

7 MS. TABACCHI: Object to the  
8 form. Lack of foundation.

9 THE WITNESS: My understanding  
10 is it would be eight weeks from the  
11 date of the time they were pulling the  
12 information.

13 Q. (BY MR. INNES) So at this  
14 point in time, Walmart maintained ordered  
15 quantities for eight weeks?

16 MS. TABACCHI: Same objections.

17 THE WITNESS: I don't know  
18 that. I just mentioned that I  
19 can't -- I don't know if we were ever  
20 able to find it. So we may have had  
21 it maintained somewhere else.

22 Q. (BY MR. INNES) If you were to  
23 do an order of interest evaluation, and  
24 wanted to look at ordered quantity for a  
25 specific pharmacy, how far back could you go?



1 MS. TABACCHI: Object to the  
2 form.

3 THE WITNESS: As mentioned in  
4 this email, it appears eight weeks.

5 Q. (BY MR. INNES) Was ordered  
6 quantity something you considered in your  
7 order of interest evaluation?

8 MS. TABACCHI: Object to the  
9 form.

10 THE WITNESS: Not that I  
11 recall. We typically would not ship  
12 something different than what was  
13 ordered. We're not going to ship more  
14 product than what was ordered.

15 Q. (BY MR. INNES) But you might  
16 ship less than what was ordered?

17 A. Yes, if we were low stock or  
18 something like that.

19 Q. Or if it was an Oxy 30 above  
20 20, you would cut to 20?

21 MS. TABACCHI: Object --

22 THE WITNESS: Not at this time.

23 Q. (BY MR. INNES) Not at this  
24 time?

25 But you wouldn't have that

1 data --

2 MS. TABACCHI: Object to the  
3 form.

4 Q. (BY MR. INNES) -- if you  
5 wanted it right now; isn't that right?

6 MS. TABACCHI: Object to the  
7 form.

8 THE WITNESS: I'm not sure what  
9 you're asking.

10 Q. (BY MR. INNES) Can you tell  
11 me, sitting here today, if you could -- you  
12 could go back to the home office and ask for  
13 a data pull of ordered -- of Oxy -- of  
14 Oxy 30s that were ordered in, say, 2016?

15 A. I don't know.

16 Q. You don't know if you could do  
17 that?

18 A. I don't know if I could do  
19 that.

20 Q. Who would know if you could do  
21 that?

22 MS. TABACCHI: Object to the  
23 form.

24 THE WITNESS: I don't know. As  
25 I mentioned, Roxy may know.

1 Q. (BY MR. INNES) Anyone other  
2 than Roxy?

3 A. Not that I know of.  
4 I'm sure there are other people  
5 in the company that would know, but I don't  
6 know who it would be.

7 Q. Can you describe in the process  
8 flow, when Buzzeeo -- the order -- the order  
9 of interest process flow once Buzzeeo was  
10 installed?

11 MS. TABACCHI: Object to the  
12 form.

13 THE WITNESS: What do you mean  
14 by "order of interest process flow"?

15 Q. (BY MR. INNES) Okay. Let me  
16 just walk through it.

17 So order comes in, goes through  
18 the Buzzeeo algorithm. It's either not  
19 flagged, which means it starts the picking  
20 process; is that right?

21 A. Yes, it would be sent to the  
22 DC.

23 Q. Okay.

24 If it is flagged, then that  
25 would be considered an order of interest; is

1       that right?

2               A.       Correct.

3               Q.       Okay. Who looks at the order  
4 of interest and what happens to that order of  
5 interest next?

6               A.       We had analysts that would  
7 review the order of interest and start the  
8 evaluation process.

9                       So they would contact the  
10 pharmacy, look at data, and pull together  
11 notes on the order of interest.

12              Q.       And where are those notes  
13 documented?

14              A.       Archer.

15                      Then those would be sent to  
16 either a senior manager or director on my  
17 team to make a final determination on whether  
18 or not the order was appropriate.

19              Q.       So is there ever a joint  
20 meeting between logistics and -- that has  
21 logistics and compliance or members --  
22 designees of logistics and compliance to  
23 deliberate over a specific order?

24                      MS. TABACCHI: Object to the  
25 form.

1 THE WITNESS: Yes. Before we  
2 would finalize a decision on a  
3 suspicious order, we were still  
4 meeting with the head of logistics.

5 Q. (BY MR. INNES) If your team  
6 identified an order as a suspicious order,  
7 you would then have a meeting with someone  
8 from logistics to review that decision?

9 MS. TABACCHI: Object to the  
10 form.

11 THE WITNESS: It would be a  
12 potential decision at that time.

13 Q. (BY MR. INNES) Fair enough.  
14 Review that recommendation?

15 MS. TABACCHI: Object to the  
16 form.

17 THE WITNESS: Yes.

18 Q. (BY MR. INNES) And how often  
19 were orders that you determined -- that your  
20 team determined to be recommended as  
21 suspicious orders ultimately, after that  
22 meeting, the joint meeting, determined to  
23 just be orders of interest?

24 MS. TABACCHI: Object to the  
25 form.

1 THE WITNESS: I don't remember.

2 Q. (BY MR. INNES) Would there be  
3 any way --

4 Well, strike that.

5 Did you document those joint  
6 meetings between logistics and compliance  
7 regarding potential suspicious orders?

8 A. I would have notes on our  
9 decisions in Archer.

10 Q. Notes on decisions in Archer.  
11 In Archer, are those notes entered by someone  
12 specifically?

13 MS. TABACCHI: Object to the  
14 form.

15 THE WITNESS: They could have  
16 been entered by myself. Roxy also was  
17 involved in that process, so she may  
18 have entered some notes.

19 Q. (BY MR. INNES) Was it only  
20 folks from the compliance team that could  
21 enter notes in Archer after that joint  
22 meeting?

23 MS. TABACCHI: Object to the  
24 form.

25 THE WITNESS: Yes. In -- after

1           Buzzeo was live, yes.

2           Q.       (BY MR. INNES) Before Buzzeo  
3 was live, was there a difference?

4                   MS. TABACCHI: Object to the  
5 form.

6                   THE WITNESS: Logistics  
7 compliance had the ability to add  
8 notes in Archer. I believe the  
9 fields -- there were certain fields  
10 for practice compliance, and I don't  
11 think that they had access to document  
12 in those.

13           Q.       (BY MR. INNES) Okay. Can you  
14 bring me into the room on a logistics meeting  
15 and the joint meeting logistics and  
16 compliance? Is that happening over the  
17 phone?

18                   MS. TABACCHI: Object to the  
19 form.

20                   THE WITNESS: It would depend.  
21 Sometimes it's over the phone.  
22 Sometimes it was in person.

23                   MR. INNES: Okay.

24           Q.       (BY MR. INNES) Ever by a  
25 video link?

1           A.       Yeah, it could have been.

2           Q.       Were any of those phone  
3       conversations or video links recorded?

4           A.       No.

5           Q.       Were there any -- when you're  
6       meeting in person, were you meeting in a  
7       conference room like this?

8           A.       It was oftentime in an office.

9           Q.       Okay. And while you're in the  
10       office, is someone logged in to Archer  
11       entering notes?

12          A.       Yes. It was typically  
13       reviewing the Archer information, discussing  
14       what was found through the evaluation process  
15       and then making a decision.

16          Q.       So you're all huddled around  
17       the computer screen and someone is typing the  
18       notes into Archer?

19          A.       Yeah. We may not be huddled  
20       but someone is reviewing what's in Archer,  
21       discussing it.

22          Q.       It's getting late in the day.  
23       I'm getting a little funny.

24          A.       Yes.

25          Q.       So would they typically be in



1       your office?

2                   MS. TABACCHI: Object to the  
3                   form.

4                   THE WITNESS: No. Typically in  
5                   the logistics leader's office. I  
6                   didn't have an office.

7                   Q.       (BY MR. INNES) Did you each  
8                   have a cubicle?

9                   A.       Yes.

10                  Q.       So typically in the logistic  
11                  leader's office?

12                  A.       (Witness nods.)

13                  Q.       Is that Chad Ducote?

14                  MS. TABACCHI: Object to the  
15                  form.

16                  THE WITNESS: Chad Ducote and  
17                  then after he left the position,  
18                  Debbie Hodges.

19                  Q.       (BY MR. INNES) Because it's in  
20                  Chad Ducote's office or Debbie Hodges'  
21                  office, I assume that logistics leader would  
22                  be the one typing into Archer?

23                  MS. TABACCHI: Object to the  
24                  form.

25                  THE WITNESS: No, it would have

1           been myself or Roxy, if she was  
2           sitting in.

3           Q.       (BY MR. INNES) Okay. So  
4       you -- you went to Chad or Debbie's office,  
5       sat in Chad or Debbie's chair, and typed in  
6       the notes into Archer?

7                   MS. TABACCHI: Object to the  
8       form.

9                   THE WITNESS: I have a  
10      laptop --

11      Q.       (BY MR. INNES) Okay.

12      A.       -- that I would bring with  
13      me --

14      Q.       All right.

15      A.       -- and sit on the table.

16      Q.       All right.

17      A.       -- and have Archer up on my  
18      laptop.

19      Q.       And you were the only one who  
20      is allowed to type notes into Archer?

21                   MS. TABACCHI: Object to the  
22      form. Misstates the testimony.

23      Q.       (BY MR. INNES) You and Roxy  
24      were the only ones who were -- that typed  
25      notes into Archer during this conference?

1           A.       Yes, I believe that we were the  
2       only two that ever participated in those.

3           Q.       If, let's say, Roxy was typing  
4       on her laptop, would you be taking notes  
5       during that conference?

6           A.       Not usually.

7           Q.       Why not?

8           A.       Because Roxy was taking notes  
9       for us.

10          Q.       All right. Did you want to  
11       make sure at any point in time that Roxy got  
12       it right and have a record to go back and  
13       check what Roxy put into the system?

14                 MS. TABACCHI: Object to the  
15       form.

16                 THE WITNESS: I would remember  
17       those conversations and could review  
18       her notes.

19          Q.       (BY MR. INNES) How many of  
20       those conversations would you have in a given  
21       week?

22                 MS. TABACCHI: Object to the  
23       form.

24                 THE WITNESS: It depended on  
25       the week.

1 Q. (BY MR. INNES) What's the most  
2 you ever had in a given week?

3 A. I don't remember.

4 Q. 100?

5 MS. TABACCHI: Object to the  
6 form.

7 THE WITNESS: Oh, no.  
8 Meetings? 100 meetings?

9 Q. (BY MR. INNES) Strike that.  
10 How many orders of interest  
11 would you -- how many recommended suspicious  
12 orders would you review in those meetings at  
13 one time?

14 MS. TABACCHI: Object to the  
15 form.

16 THE WITNESS: So we would  
17 review in those meetings orders of  
18 interest that came to -- and I'm  
19 talking about pre-Buzzeo -- the ones  
20 that came to compliance for  
21 evaluation. So when we would review,  
22 they wouldn't all be ones that we were  
23 recommending as suspicious.

24 Q. (BY MR. INNES) Right. I want  
25 to get in sort of the same meeting.

1                   So after you've reviewed the  
2       compliance -- after you've had a chance --  
3       the compliance team has had a chance to  
4       review an order of interest that you are now  
5       choosing to recommend as suspicious order,  
6       right, there's a meeting between the  
7       compliance team and the logistics team; is  
8       that right? Do I have that right?

9                   MS. TABACCHI: Object to the  
10               form.

11               THE WITNESS: Can you restate  
12               that?

13               MR. INNES: Sure.

14               Q.       (BY MR. INNES) After the  
15       compliance team has reviewed an order of  
16       interest and determined that the  
17       recommendation would be this is a suspicious  
18       order, is there a meeting between compliance  
19       and logistics regarding that specific order?

20               MS. TABACCHI: Object to the  
21               form.

22               THE WITNESS: Yes, but we would  
23       also review orders that we were not  
24       recommending as suspicious. Because  
25       the -- it was not just our decision.

1           The decision was made between the lead  
2           of logistics and myself.

3           Q.       (BY MR. INNES)   Okay.

4           A.       So they had the opportunity to  
5           disagree with our recommendation if something  
6           was appropriate or suspicious.

7           Q.       So if -- to make it to your  
8           desk, to make it to your office, the order  
9           had to have gone through logistics and be  
10          flagged as -- continue to be flagged as an  
11          order of interest. They -- is that right?

12                   MS. TABACCHI:   Object to the  
13          form.

14          Q.       (BY MR. INNES)   Or could  
15          they --

16          A.       Or could they what?   Sorry.

17                   MS. TABACCHI:   Sorry, I don't  
18          mean to interrupt your flow, but feel  
19          free to rephrase that.

20          Q.       (BY MR. INNES)   We're talking  
21          about the Reddwerks enhancements.

22          A.       Yes.

23          Q.       Order goes through Reddwerks  
24          enhancement. It's flagged as an order of  
25          interest. It's not cleared by the logistics

1 team. Right?

2 A. Correct.

3 Q. And now it's still an order of  
4 interest, and it's with your team.

5 A. Yes.

6 Q. And you determine that, yeah,  
7 that's still an order of interest. What  
8 happens next?

9 A. We do additional evaluation on  
10 the order.

11 Q. Who is "we"?

12 A. Roxy and I.

13 Q. Just the compliance folks?

14 A. Just the compliance folks.

15 Q. Here's where I think we're  
16 talking past each other. After you've done  
17 that review, the review the compliance team  
18 would review on an order of interest, what  
19 are the -- what outcomes can flow from that  
20 meeting?

21 A. So we would do an additional  
22 review, so gather additional information on  
23 the orders of interest.

24 Q. Okay.

25 A. That information would be taken

1 to a meeting between myself and the leader of  
2 logistics.

3 Q. Okay.

4 A. Sometimes Roxy would attend to  
5 help take notes or provide information if we  
6 had questions about the additional details of  
7 an order. We would discuss those orders and  
8 all the information that had been gathered,  
9 and decide together is this order appropriate  
10 or is this suspicious?

11 Q. Okay. And then what would  
12 happen?

13 A. If --

14 Q. Let's say you decide it was an  
15 appropriate order. What happens?

16 A. If it was an appropriate order,  
17 then we would what we call clear the order,  
18 which would allow it to move forward and be  
19 filled and shipped.

20 Q. Okay.

21 A. If it was suspicious, then we  
22 would cancel the order and report it.

23 Q. Report it to whom?

24 A. The DEA and state board of  
25 pharmacy if applicable in that state.



1           Q.       In the interest of brevity,  
2       this was the Reddwerks enhanced system.

3           A.       Yes.

4           Q.       "Yes" or "no," it was a  
5       different system after Buzzeo was  
6       implemented?

7           A.       It was slightly different.

8           Q.       Okay. Let's talk about those  
9       slight differences.

10          A.       Okay.

11          Q.       We can just go through the  
12       whole thing again.

13                    So Buzzeo flags it:

14          A.       Flags an order of interest.

15          Q.       Okay. What happens next?

16          A.       All of those orders of interest  
17       are reported to the DEA and the state board  
18       as applicable.

19                    We conducted an evaluation of  
20       the orders. So we looked at the data,  
21       contacted the pharmacies, gathered  
22       information about the order, the analyst  
23       would.

24                    Then we had a group of senior  
25       managers -- and I was involved in this as

1 well -- who would review the information  
2 pulled together by the analyst and make a  
3 decision on if that order was going to be  
4 shipped because it was an appropriate order  
5 or cancelled.

6 Q. Okay. I want to clarify one  
7 thing because maybe I misheard it.

8 I think you said -- "Buzzeo  
9 flags it."

10 You said -- yes, "Flags an  
11 order of interest."

12 "Okay. What happens next?"

13 "All of those orders of  
14 interest are reported to the DEA and the  
15 state board as applicable."

16 A. Mm-hmm. (Witness nods.)

17 Q. Is that accurate?

18 A. Yes.

19 Q. So when did Walmart start  
20 reporting orders of interest to the DEA?

21 A. We started reporting our orders  
22 of interest in -- when we rolled out the  
23 Buzzeo system, in -- I believe that was  
24 November of 2017.

25 Q. And why did you change your

1 reporting operations at that point in time?

2 MS. TABACCHI: Object to the  
3 form.

4 THE WITNESS: It was our  
5 understanding that after the master's  
6 decision, we needed to report orders  
7 of interest.

8 Q. (BY MR. INNES) And when did  
9 you make that -- make that change?

10 MS. TABACCHI: Object to the  
11 form. Asked and answered.

12 THE WITNESS: When we wrote out  
13 the Buzzeeo system, which I believe was  
14 in November 2017.

15 Q. (BY MR. INNES) Are you aware  
16 of any orders of interest that were reported  
17 for the CT-1 jurisdictions?

18 MS. TABACCHI: Object to the  
19 form.

20 Do you want to let her know  
21 what you mean by that?

22 THE WITNESS: Can you tell me  
23 what those are?

24 MR. INNES: Let's just do Ohio.

25 THE WITNESS: Okay.

1 Q. (BY MR. INNES) Are you aware  
2 of any orders of interest that were reported  
3 for Ohio?

4 MS. TABACCHI: Object to the  
5 form.

6 THE WITNESS: Not any specific  
7 ones.

8 Q. (BY MR. INNES) Do you recall  
9 any orders of interest that were reported to  
10 the DEA?

11 MS. TABACCHI: Object to the  
12 form.

13 THE WITNESS: Not any specific  
14 orders of interest. We did report to  
15 the DEA orders of interest.

16 Q. (BY MR. INNES) So yes, Walmart  
17 reported orders of interest to the DEA?

18 A. Yes.

19 Q. Do you have records of those  
20 orders of interest that were reported to the  
21 DEA?

22 A. Yes.

23 Q. Do you know if those have been  
24 produced in this case?

25 A. I'm --

1 MS. TABACCHI: I'm not sure how  
2 the witness would know that, but I can  
3 represent to you that we produced  
4 anything related to the CT-1  
5 jurisdictions to you.

6 Q. (BY MR. INNES) Do you know  
7 whether or not the Buzzeeo algorithm used an  
8 active ingredient list as part of its  
9 algorithm?

10 A. I don't know --

11 MS. TABACCHI: Object to the  
12 form.

13 THE WITNESS: I don't know if  
14 it was part of the algorithm  
15 specifically, but it did group orders  
16 by active ingredient.

17 Q. (BY MR. INNES) Did you supply  
18 that active ingredient list -- or did Walmart  
19 supply their active ingredient list to  
20 Buzzeeo?

21 MS. TABACCHI: Object to the  
22 form.

23 THE WITNESS: We did. I think  
24 they also reviewed it as well.

25 Q. (BY MR. INNES) Do you know why

1 the active ingredient list was used as part  
2 of the Buzzeeo platform?

3 MS. TABACCHI: Object to the  
4 form.

5 THE WITNESS: The idea was that  
6 the algorithm would look at all drugs  
7 with the same active ingredient and  
8 consider those orders together.

9 (Walmart Johnson Deposition  
10 Exhibit 11 was marked for  
11 identification.)

12 [Document review.]

13 THE WITNESS: Okay.

14 Q. (BY MR. INNES) Okay. So  
15 Exhibit 11 is an email string between you and  
16 Kristy Spruell. It begins -- well, it begins  
17 at the bottom of the page, Tuesday,  
18 April 14th, 2015 from Kristy to you, Miranda,  
19 and the body of that email is -- I'm sorry.  
20 Second-to-the-last email states, "Sorry, I  
21 meant to send you last week. I haven't put  
22 anything in there yet. I haven't needed to  
23 send any order on for further evaluation  
24 since I got access to the system. I haven't  
25 had time to answer all the historic approved

1       order details yet. I have all the  
2       information. It's still in my -- it's just  
3       still in my notebook. I plan to get all the  
4       details in the system this week, and then  
5       start entering the details as I go."

6                       Is it your understanding that  
7       the folks that were entering information into  
8       Archer were transcribing it from one source  
9       into Archer? Because that's what it sounds  
10      like was going on here.

11                     MS. TABACCHI: Object to the  
12      form.

13                     THE WITNESS: This was, if I  
14      recall correctly, when we very first  
15      developed the Archer form, and I  
16      believe Kristy was not as quick to  
17      adopt it, and so she had some  
18      historical notes before the form was  
19      ready that she was -- did transcribe  
20      into Archer.

21                     Q.       (BY MR. INNES) Do you know if  
22      Kristy maintained those notes in any way,  
23      shape or form?

24                     A.       I don't know.

25                     Q.       Who would I have to ask to

1 figure that out?

2 MS. TABACCHI: Object to the  
3 form.

4 THE WITNESS: I don't know.

5 Q. (BY MR. INNES) Do you think  
6 Kristy would know?

7 MS. TABACCHI: Object to the  
8 form.

9 THE WITNESS: I don't know.

10 Q. (BY MR. INNES) And when you  
11 say she wasn't -- she didn't adopt it early  
12 on, was there a lag period between the time  
13 when she could have started using it and when  
14 she did use it?

15 MS. TABACCHI: Object to the  
16 form.

17 THE WITNESS: Yes, it appears  
18 so.

19 Q. (BY MR. INNES) So are we  
20 talking about -- is Kristy also entering  
21 information into Archer, sort of like  
22 backdating it? So let's say, for instance,  
23 it went live on January 1st. Was Kristy told  
24 to -- January 1st, 2015.

25 Was Kristy told to start



1 entering orders from, you know, 2013, 2014,  
2 into the database?

3 MS. TABACCHI: Object to the  
4 form.

5 THE WITNESS: I -- I don't  
6 believe this was referencing anything  
7 that old. It was -- Kristy -- I don't  
8 know that Kristy was even involved in  
9 SOM evaluations back then. This was  
10 from the time that Kristy was  
11 involved, is my understanding.

12 Q. (BY MR. INNES) So it was a  
13 very bad hypothetical.

14 So if the date on which Archer  
15 went live -- in the Archer system, would you  
16 find information from the live date forward  
17 or would there also be information that was  
18 from someone else, prior to Archer, but  
19 otherwise transcribed into Archer?

20 MS. TABACCHI: Object to the  
21 form.

22 THE WITNESS: I believe that we  
23 asked Kristy to take some of the older  
24 information. And when I say "older,"  
25 I don't think it would have been more

1           than, you know, a few weeks or a month  
2           or so, and put it into Archer.

3           Q.       (BY MR. INNES) And where was  
4           it housed before Archer again?

5                   MS. TABACCHI: Object to the  
6           form.

7                   THE WITNESS: Based on this  
8           email, she had it in a notebook.

9           Q.       (BY MR. INNES) Okay. So the  
10          evaluation notes that would typically go into  
11          Archer or do go into Archer, some were housed  
12          only in Kristy's notes?

13                  MS. TABACCHI: Object --

14                  MR. INNES: Prior to being  
15          transcribed into Archer?

16                  MS. TABACCHI: Object to the  
17          form.

18                  THE WITNESS: It appears that  
19          she took notes in a notebook, and then  
20          we asked for her to transcribe those  
21          into Archer.

22                  MR. INNES: Okay.

23                   (Walmart Johnson Deposition  
24          Exhibit 12 was marked for  
25          identification.)

1 [Document review.]

2 MR. INNES: I can direct you to  
3 the exact line that I'm interested in  
4 or you can read the whole email.  
5 That's entirely up to you.

6 THE WITNESS: Go ahead.

7 Q. (BY MR. INNES) This is an  
8 email from Miranda Johnson to -- and I've  
9 already forgotten how to pronounce it --  
10 Tim Koch?

11 A. Tim Koch.

12 Q. Sent on April 27, 2015.

13 So the prior email, Exhibit 11,  
14 was on April 14th, 2015, so this is a fairly  
15 contemporaneous email; is that right?

16 A. Yes. They were close together.

17 Q. Okay.

18 So the line I'm interested in  
19 is at the bottom of 27961. It says, "I have  
20 concerns about the lack of Archer  
21 documentation."

22 What are you referring to there  
23 exactly?

24 A. I don't remember exactly. But  
25 it's likely in reference to this email where

1 we had asked Kristy to transcribe her notes,  
2 and it was taking time to do that.

3 Q. So I think you testified  
4 earlier that if you were to do either a -- an  
5 order of interest evaluation or a threshold  
6 adjustment, you would look to the information  
7 that was in Archer as part of that  
8 investigation; is that right?

9 A. Yes.

10 Q. And to be able to do a full  
11 investigation -- full and accurate  
12 investigation, you would need full and  
13 accurate information in Archer; isn't that  
14 right?

15 MS. TABACCHI: Object to the  
16 form.

17 THE WITNESS: Yes.

18 Q. (BY MR. INNES) But you had  
19 concerns about the information that was in  
20 Archer; is that right?

21 MS. TABACCHI: Object to the  
22 form.

23 THE WITNESS: At this specific  
24 time I did.

25 MR. INNES: Thank you.

1 THE WITNESS: Just to clarify,  
2 threshold evaluations were not being  
3 conducted at this time.

4 Q. (BY MR. INNES) I thought you  
5 said at that period of time, you were only  
6 using Archer for order of interest  
7 evaluations.

8 A. Yes.

9 Q. Okay. Thank you.  
10 (Walmart Johnson Deposition  
11 Exhibit 13 was marked for  
12 identification.)

13 [Document review.]

14 Q. (BY MR. INNES) I'm sorry,  
15 Miranda -- Ms. Johnson, are you done?

16 MS. TABACCHI: So what that  
17 means is that this is not all one  
18 email. This is a combination of  
19 multiple documents.

20 THE WITNESS: Okay.

21 Can you tell me what is all an  
22 email or what is connected to each  
23 other?

24 Q. (BY MR. INNES) Sure. So we  
25 have a series of emails that I believe are

1 related.

2 A. Okay.

3 Q. They are -- first it's 3862.

4 And then there's another document here. It's  
5 another email, 5876. And then a third email  
6 that is 5882 through 5883.

7 And I'm wondering if you can  
8 tell me whether or not you reviewed -- well,  
9 whether or not Sharla ever completed any  
10 trend analysis regarding suspicious order  
11 reports.

12 A. I don't know.

13 Q. Okay.

14 Do you know if she -- did you  
15 ever send Sharla raw data regarding  
16 suspicious order reports?

17 A. What I provided Sharla was when  
18 we made a determination that an order was  
19 suspicious, there was a notification that  
20 went out to various individuals in the  
21 company and I added her to that distribution  
22 list.

23 Q. So the information you provided  
24 Sharla was forward-looking from the date of  
25 this email?

1 MS. TABACCHI: Object to the  
2 form.

3 Q. (BY MR. INNES) I'm sorry, the  
4 one ending in 3862? It's the first page.

5 A. Yes, if I remember correctly,  
6 we just added her to the distribution list,  
7 so she received notifications.

8 Q. So did she do any trend  
9 analysis that you're aware of following your  
10 provision -- your adding her to that  
11 notification?

12 A. I never saw anything.

13 Q. Did you ever ask her if she'd  
14 done it?

15 A. I don't remember if I did or  
16 not.

17 Q. Do you know who would ask if  
18 Sharla completed that work?

19 MS. TABACCHI: Object to the  
20 form.

21 THE WITNESS: Can you restate  
22 that?

23 Q. (BY MR. INNES) Who would know  
24 if Sharla completed that work?

25 A. I don't know.

1 Q. Turn your attention to the  
2 second-to-the-last page, 5882.

3 Do you know why Mr. Chapman  
4 granted Sharla access to Tableau?

5 A. I don't.

6 Q. So this email from Mr. Chapman  
7 on January 11th to you and Sharla says, "I  
8 think if we add Sharla to the distribution of  
9 the determination of controlled substance  
10 suspicious order reports along with the  
11 access I just granted to Tableau, she'll have  
12 everything she needs to identify trends."

13 Do you agree with that  
14 statement? That she had everything she  
15 needed to identify trends with those two  
16 pieces of information?

17 MS. TABACCHI: Object to the  
18 form.

19 THE WITNESS: I don't know what  
20 all types of trends she was  
21 identifying. The only ones I was  
22 aware of is she wanted to look at  
23 trends for suspicious order  
24 monitoring.

25 Q. (BY MR. INNES) Okay. Would



1       this information, the access to Tableau and  
2       the addition to the distribution list, give  
3       her enough information to identify trends?

4               MS. TABACCHI: Object to the  
5       form. Lack of foundation.

6               THE WITNESS: We didn't house  
7       suspicious order monitoring in  
8       Tableau, so I don't know what other  
9       trends she was trying to develop with  
10      information from Tableau.

11              Q.       (BY MR. INNES) What did you  
12      have in Tableau?

13              MS. TABACCHI: Object to the  
14      form. Asked and answered.

15              THE WITNESS: My team did not  
16      house specific information in Tableau.  
17      I don't know if George's -- someone  
18      else in George's organization did.

19              Q.       (BY MR. INNES) So we have to  
20      ask George that question?

21              A.       Yes. He would know better than  
22      I would.

23              Q.       Did you ever receive any DEA  
24      reports from Sharla ever?

25              MS. TABACCHI: Object to the

1 form.

2 THE WITNESS: What do you mean  
3 by "DEA reports"?

4 Q. (BY MR. INNES) Did Sharla ever  
5 generate any reports related to the DEA that  
6 you reviewed?

7 MS. TABACCHI: Object to the  
8 form.

9 THE WITNESS: I don't believe  
10 I've received any reports from Sharla.

11 Q. (BY MR. INNES) Did anyone on  
12 your team receive reports from Sharla?

13 MS. TABACCHI: Object to the  
14 form.

15 THE WITNESS: Not that I'm  
16 aware of.

17 Q. (BY MR. INNES) Was there  
18 anyone else that held Sharla's role during  
19 your time as the controlled -- director of --

20 MS. TABACCHI: I'm sorry, did  
21 you finish your -- can we have that  
22 question again?

23 MR. INNES: Sure.

24 Q. (BY MR. INNES) Was there  
25 anyone else that held Sharla's role during

1       that time?

2                       MS. TABACCHI: Object to the  
3               form.

4                       THE WITNESS: During what time?

5               Q.       (BY MR. INNES) During January  
6       of 2016 and later.

7                       MS. TABACCHI: Object to the  
8               form.

9                       THE WITNESS: After Sharla  
10       left, Marcus Mabry joined. But I  
11       don't know if it was the same role  
12       exactly. I don't know if he did the  
13       same thing as Sharla did.

14               Q.       (BY MR. INNES) Could you spell  
15       Marcus's last name?

16               A.       I think it's M-A-B-R-Y.

17               Q.       And did Marcus perform any  
18       analysis related to Schedule II or  
19       Schedule IIIs that you're aware of?

20               A.       Not that I'm aware of.

21               Q.       Do you think that would be  
22       something that was in Marcus's purview?  
23       Analysis of Schedule II?

24                       MS. TABACCHI: Object to the  
25               form.

1 THE WITNESS: Not based on my  
2 understanding of his role.

3 Q. (BY MR. INNES) Any other  
4 analysts that you can think of at any time  
5 that performed analysis related to  
6 Schedule IIs or Schedule IIIs?

7 MS. TABACCHI: Object to the  
8 form.

9 THE WITNESS: What kind of  
10 analysis?

11 Q. (BY MR. INNES) Trend analysis.

12 MS. TABACCHI: Object to the  
13 form.

14 THE WITNESS: Not that I'm  
15 aware of or that I can think of.

16 Q. (BY MR. INNES) When  
17 reviewing -- did you ever review the relative  
18 success or failure of Buzzco as a SOM  
19 platform?

20 MS. TABACCHI: Object to the  
21 form.

22 THE WITNESS: I don't know how  
23 I would quantify it as a success or a  
24 failure.

25 Q. (BY MR. INNES) Were any -- the

1       DEA serve any subpoenas on Walmart following  
2       Buzzeo's implementation regarding C-IIs or  
3       C-IIIs?

4                   MS. TABACCHI: Object to the  
5       form. I'm also not quite sure what  
6       you're asking the witness, but I'm  
7       going to caution the witness not to  
8       reveal the substance of any  
9       communications with counsel.

10                   If you had communications -- if  
11       you personally had communications with  
12       the DEA after Buzzeo -- the  
13       implementation of the Buzzeo system,  
14       you can answer that question, but ...

15                   THE WITNESS: The DEA did reach  
16       out after our Buzzeo implementation  
17       and asked why we were reporting so  
18       many orders.

19                   Q.       (BY MR. INNES) I'll ask the  
20       question again.

21                   Did Walmart receive any  
22       subpoenas from DEA following the  
23       implementation of Buzzeo?

24                   MS. TABACCHI: I'm going to  
25       caution the witness not to reveal the

1 substance of any communications with  
2 counsel.

3 If you can answer -- if you are  
4 aware of information or can answer  
5 that question without revealing  
6 communications with counsel, you may.  
7 If you know.

8 THE WITNESS: Subpoenas don't  
9 come to me, so ...

10 MS. TABACCHI: Okay. That's  
11 easy enough.

12 Q. (BY MR. INNES) Who do  
13 subpoenas go to?

14 MS. TABACCHI: Object to the  
15 form. Lack of foundation.

16 THE WITNESS: I believe the  
17 legal department.

18 (Walmart Johnson Deposition  
19 Exhibit 14 was marked for  
20 identification.)

21 [Document review.]

22 Q. (BY MR. INNES) Okay, Miranda,  
23 Ms. Johnson, this is an email that you sent  
24 to Koch, and it says in the middle "DEA  
25 subpoenas. We have several to review this

1 week. Also going to schedule a meeting with  
2 the appropriate groups to address data errors  
3 and ways we can improve the process and limit  
4 our review time."

5 Are you aware of any DEA  
6 subpoenas served on Walmart?

7 MS. TABACCHI: I'm going to  
8 caution the witness in the same way,  
9 not to reveal the substance of any  
10 communications with counsel. If  
11 you --

12 MR. INNES: That's a yes-or-no  
13 question, Tina.

14 MS. TABACCHI: You can answer  
15 if you can answer this.

16 If you understand what this  
17 refers to without revealing privileged  
18 communications, you may answer.

19 THE WITNESS: I do. I think I  
20 can clarify what I meant by "DEA  
21 subpoenas."

22 The DEA will subpoena records  
23 from Walmart when they're  
24 investigating a prescriber or a  
25 patient. And after those went to --

1           would go to legal and they would pull  
2           the information on that prescriber or  
3           patient that was under investigation,  
4           we would review that for accuracy.

5           Q.       (BY MR. INNES) So these are  
6           subpoenas for information that Walmart might  
7           have as part of another investigation by the  
8           DEA?

9                   MS. TABACCHI: Object to the  
10           form.

11                  THE WITNESS: As I mentioned,  
12           it was the DEA asking for information  
13           about a prescriber or a patient.

14           Q.       (BY MR. INNES) Did you comply  
15           with those subpoenas?

16                  MS. TABACCHI: Object to the  
17           form.

18                  THE WITNESS: I was not the one  
19           responsible for responding to the  
20           subpoenas. We would just review the  
21           data that was going to be sent for  
22           accuracy.

23           Q.       (BY MR. INNES) Do you ever  
24           recall finding data that was inaccurate?

25                  MS. TABACCHI: Object to the



1 form.

2 THE WITNESS: We did have  
3 situations where the way the data was  
4 pulled was not -- was not correct.  
5 And so we would let them know that  
6 this -- this doesn't work correct. It  
7 was pulled incorrectly.

8 Q. (BY MR. INNES) Do you recall  
9 the names of those prescribers?

10 A. I don't.

11 Q. Was the -- when Walmart  
12 received such a subpoena, was that entered  
13 into Archer?

14 A. We did enter some of these into  
15 Archer, yes.

16 Q. Why only some?

17 A. It was the ones that we had  
18 visibility to, we'd enter into Archer.

19 Q. What do you mean by  
20 "visibility"?

21 MS. TABACCHI: Object to the  
22 form. Again, I'd caution the witness  
23 not to reveal the substance of any  
24 communications with counsel. If you  
25 can answer without doing so, you may.

1 THE WITNESS: We did not always  
2 review -- we were not always involved  
3 in this process. So those would not  
4 have been entered into Archer when we  
5 were not involved.

6 Q. (BY MR. INNES) If -- by you,  
7 do you mean the compliance team?

8 A. Yes.

9 Q. If the compliance team was  
10 involved in the review, would you necessarily  
11 enter it into Archer?

12 MS. TABACCHI: Object to the  
13 form.

14 THE WITNESS: I believe we  
15 would. I don't remember if we started  
16 doing that initially.

17 Q. (BY MR. INNES) When do you  
18 believe you started doing that?

19 A. I don't remember.

20 Q. Would there be a record readily  
21 identifiable in Archer -- strike that.

22 Could you query Archer for DEA  
23 subpoenas?

24 A. Possibly.

25 Q. Who would know?

1 A. Roxy might know.

2 Q. Roxy knows a lot.

3 A. She does know a lot.

4 Q. And Roxy reported to you?

5 A. Yes.

6 MS. TABACCHI: How are we doing  
7 on time? As you know, we were hoping  
8 to start at 8:00 a.m. for travel  
9 purposes. And we were here and  
10 prepared to start at 8:00, so --

11 I know you're doing the best  
12 you can. How are we doing on time?

13 MR. INNES: We're doing -- I  
14 can take a hard five-minute break --  
15 and I'll be honest on the five-minute  
16 break -- and organize my notes and we  
17 can come back in.

18 Are you going to have much  
19 redirect, do you think?

20 MS. TABACCHI: Well, that  
21 depends on your last five minutes.

22 MR. INNES: Okay. See, neither  
23 of us are certain as to what's  
24 happening.

25 I mean, for the record, we saw

1           that the notice was for 9 o'clock a  
2           while back. We contacted Golkow.  
3           Golkow -- I'll have to talk to my  
4           paralegal, but Golkow was on notice to  
5           correct it. We were under the  
6           assumption it was corrected. So I  
7           don't know what the snafu happened  
8           there.

9                       But, yeah, we were ready to go  
10           at 7:45.

11                      MS. TABACCHI: Understood. We  
12           were all here at 8 o'clock.

13                      Understood.

14                      MR. INNES: Right.

15                      MS. TABACCHI: Thank you.

16                      MR. INNES: We're on the same  
17           page.

18                      MS. TABACCHI: All right.

19                      VIDEOGRAPHER: We're going off  
20           the record at 5:27 p.m.

21                      (Recess taken, 5:27 p.m. to  
22           5:35 p.m.)

23                      VIDEOGRAPHER: We are back on  
24           the record at 5:36 p.m.

25                      (Walmart Johnson Deposition

1           Exhibit 15 was marked for  
2           identification.)

3                       [Document review.]

4           Q.       (BY MR. INNES) I can get you  
5           right where we want to be.

6           A.       Okay. Sounds good.

7           Q.       So this is an email from you to  
8           George Chapman on Wednesday, February 18,  
9           2015.

10                    You're discussing a senior  
11           controlled substance analyst.

12                    Is this a position you're --  
13           you'd like to fill? Or is it a position that  
14           exists?

15           A.       It's a position that I would  
16           like to fill.

17           Q.       So is this a position that's  
18           being created and needs to be filled, or is  
19           it --

20           A.       I'm asking for it to be  
21           created.

22           Q.       Okay. And why are you asking  
23           for it to be created?

24           A.       To help support the work that I  
25           was doing.

1 Q. Okay. And what work was that?

2 A. The work related to our  
3 suspicious order monitoring program.

4 Q. And what support was this  
5 particular role going to provide?

6 A. It was mainly the data  
7 elements, the analytics-type pieces that we  
8 talked about. Because I don't have  
9 experience in pulling from databases and  
10 things like that, so ...

11 Q. Sure.

12 So was this position ultimately  
13 created?

14 A. Yes.

15 Q. Okay. And who filled that  
16 position?

17 A. Roxy Reed.

18 Q. You're kidding.

19 A. No.

20 Q. And did all -- did Roxy take on  
21 all of the reactive analytics that you  
22 describe here?

23 MS. TABACCHI: Object to the  
24 form.

25 THE WITNESS: In some form.

1           This was very early, and so I think  
2           this was just my brainstorming of  
3           things that an analyst could  
4           potentially do.

5           Q.       (BY MR. INNES) Okay. Did Roxy  
6           develop reactive analytics directed toward  
7           SOM threshold development and periodic  
8           updates?

9                   MS. TABACCHI: Object to the  
10           form.

11                   THE WITNESS: Roxy, as we  
12           mentioned earlier, calculated the SOM  
13           thresholds and then would do -- did  
14           the periodic update to the SOM  
15           threshold that we discussed.

16           Q.       (BY MR. INNES) And the SOM  
17           threshold that -- the calculations for that  
18           were based on the equation provided by  
19           Mu Sigma?

20           A.       Yes.

21           Q.       Were there any other threshold  
22           calculations other than Mu Sigma that Roxy or  
23           anyone else in your department performed?

24                   MS. TABACCHI: Object to the  
25           form.

1                   THE WITNESS: As I mentioned,  
2                   we also had the adjustments that we  
3                   made for the liquids and the lowering  
4                   of thresholds that were above 5,000  
5                   dosage units per week to -- down to  
6                   5,000 dosage units a week. And then  
7                   new -- she would calculate the  
8                   thresholds, as I mentioned, for new  
9                   pharmacies.

10                  Q.           (BY MR. INNES) Did Roxy  
11                  perform an analysis of data to support SOM  
12                  remediation plan development?

13                  A.           So what this became was the  
14                  dispensing data that we pulled to review  
15                  during an order of interest evaluation.

16                  Q.           Okay. And -- so was that --  
17                  that dispensing data analysis, that --  
18                  when -- at what point in time did that come  
19                  to fruition?

20                  MS. TABACCHI: Object to the  
21                  form.

22                  THE WITNESS: It was around the  
23                  time that Roxy started. We did it in  
24                  a -- in a lesser form, not as -- not  
25                  as -- I'm trying to think of the term



1           to use. The more rudimentary form,  
2           based on data that I could pull  
3           without the extensive database skills  
4           that Roxy had initially, and then when  
5           Roxy joined the team, she improved our  
6           ability to pull together data.

7           Q.       (BY MR. INNES) What kind of  
8           data did you pull before Roxy began helping  
9           you?

10          A.       I was able to pull some basic  
11          dispensing data.

12          Q.       Such as?

13          A.       What we had dispensed for that  
14          drug and that location over a time period.

15          Q.       And was that the extent of your  
16          ability?

17                   MS. TABACCHI: Object to the  
18          form.

19                   THE WITNESS: There was also  
20          some information available in Archer  
21          that I was able to review. I don't  
22          remember if there was anything else  
23          that I pulled.

24          Q.       (BY MR. INNES) You don't  
25          remember if there was anything else you

1 pulled from Archer?

2 A. Or pulled from data generally.

3 Q. Okay. And what was Roxy able  
4 to do that you were not able to do?

5 A. She has skills in analytics and  
6 using analytics tools. So she was able to  
7 pull data that I didn't have access to in  
8 databases and then do analytics on those to  
9 show things like trends that we discussed  
10 earlier, patient distances that we discussed  
11 earlier.

12 Q. Why didn't you have access to  
13 certain databases that Roxy did?

14 MS. TABACCHI: Object to the  
15 form.

16 THE WITNESS: Because I don't  
17 have the background in using the  
18 analytics tools that Roxy does to  
19 query those databases.

20 Q. (BY MR. INNES) What analytics  
21 tools does Roxy use to query those databases?

22 MS. TABACCHI: Object to the  
23 form.

24 THE WITNESS: Alteryx, which we  
25 discussed earlier.

1 Q. (BY MR. INNES) Anything else?

2 A. SQL.

3 Q. Anything else?

4 A. That's all that I'm aware of.

5 Q. Okay. And you reviewed reports  
6 generated from Alteryx?

7 MS. TABACCHI: Object to the  
8 form.

9 Q. (BY MR. INNES) By Roxy?

10 MS. TABACCHI: Same objection.

11 THE WITNESS: Reports  
12 related -- I did review  
13 reports-related order evaluations from  
14 Alteryx, yes.

15 MR. INNES: I don't know if  
16 those have been produced in the case.  
17 We ask if they are. I'll send you a  
18 letter.

19 MS. TABACCHI: I will pass that  
20 on to Tara.

21 MR. INNES: Fantastic.

22 Q. (BY MR. INNES) Below the  
23 reactive analytics there is a proactive  
24 analytics. Development and management data  
25 models to identify hot spots that can be used

1 for proactive remediation.

2 What did you mean by the term  
3 "hot spots"?

4 A. I believe it was just are there  
5 areas or certain pharmacies that we might  
6 want to take a closer look at from a training  
7 perspective?

8 Q. Okay.

9 And you said, "This would  
10 include development of models for like store  
11 comparisons."

12 Were models for like store  
13 comparisons ever developed?

14 MS. TABACCHI: Object to the  
15 form.

16 THE WITNESS: We started to try  
17 to develop them. It's very  
18 complicated to determine if a store is  
19 a like store. We did -- we would look  
20 at stores, eventually group them  
21 together based on their overall  
22 volume.

23 Q. (BY MR. INNES) How did you go  
24 about doing that?

25 A. We were able to see how much

1       they dispensed overall, and we would group  
2       those stores within, you know, the same --  
3       like, similar volume together.

4               Q.       And those reports were created  
5       by Roxy?

6                       MS. TABACCHI: Object to the  
7       form.

8                       THE WITNESS: Yes.

9               Q.       (BY MR. INNES) Do you recall  
10       the location of the stores that you compared?

11                      MS. TABACCHI: Object to the  
12       form.

13               Q.       (BY MR. INNES) As you sit here  
14       today?

15               A.       I mean, we basically looked at  
16       all of our pharmacies and then put them into  
17       groups.

18               Q.       Okay. So you looked at all  
19       4,000-odd pharmacies and put them in like  
20       buckets?

21               A.       Yes.

22               Q.       Okay.

23               A.       Based on their overall  
24       dispensing volume.

25               Q.       When was that analysis

1 performed?

2 A. It was pretty close to the time  
3 we implemented Buzzeo because we included  
4 that information with Buzzeo.

5 Q. Oh, did you provide that  
6 information to Buzzeo to develop the  
7 algorithm?

8 A. I don't know that they used  
9 that to develop the algorithm.

10 Q. Did they request it from you?

11 A. There was a -- I believe there  
12 was a stress bar that would compare the  
13 pharmacies' orders to orders within that same  
14 grouping. But I don't think it was used to  
15 actually create the algorithm.

16 Q. Okay.

17 A. I'm not sure, honestly --

18 Q. Do you know --

19 A. -- if it was used.

20 Q. Do you know if that analysis  
21 was ever updated after it was provided to  
22 Buzzeo?

23 MS. TABACCHI: Object to the  
24 form.

25 THE WITNESS: I don't know. We

1           used Buzzeo for a very short period of  
2           time, though, as we discussed.

3           Q.       (BY MR. INNES) Did you retain  
4           a copy of that analysis in your own files?

5           A.       I don't know if I would have a  
6           copy in my files.

7                   MR. INNES: You are going to  
8           direct me to Tara again, but we'd just  
9           request that that analysis be produced  
10          if it hasn't already been.

11          Q.       (BY MR. INNES) Do you know if  
12          the proactive -- under the proactive  
13          analytics, it lists "Review and follow-up  
14          analysis from various reports related to  
15          controlled substance ordering and  
16          dispensing."

17                   Do you know if that review and  
18          follow-up analysis was ever performed?

19          A.       We did review reports that we  
20          had received from McKesson. The over  
21          4 percent report, we did not review that.  
22          There was another team that was responsible  
23          for reviewing that, and then I think that  
24          report went away.

25          Q.       (BY MR. INNES) Do you recall

1 if an analysis of refusal to fill data was  
2 ever performed?

3 MS. TABACCHI: Object to the  
4 form.

5 THE WITNESS: Yes.

6 Q. (BY MR. INNES) And when was  
7 that?

8 A. I don't remember when exactly.

9 Q. Who performed it?

10 A. Roxy would have.

11 MR. INNES: I'd ask that Roxy's  
12 analysis of the refusal to fill data  
13 be produced if it hasn't already been.

14 Q. (BY MR. INNES) The analysis of  
15 IMS data -- I'm sorry, was there an analysis  
16 of IMS data that was performed?

17 MS. TABACCHI: Object to the  
18 form.

19 THE WITNESS: Not that I  
20 remember.

21 MR. INNES: Okay.

22 Q. (BY MR. INNES) Why were you  
23 suggesting that it should be done?

24 MS. TABACCHI: Object to the  
25 form.



1 THE WITNESS: I think at the  
2 time I was just learning about IMS,  
3 and thought it may be something that  
4 was useful to us, but it -- what I  
5 thought it was, it wasn't.

6 Q. (BY MR. INNES) What did you  
7 think it was?

8 A. We weren't able to look at just  
9 controlled substances in IMS data and  
10 separate them out.

11 Q. Did you -- it says in the  
12 parenthetical "Our dispensing patterns versus  
13 industry dispensing."

14 Did you -- was there ever an  
15 analysis done of that comparison, dispensing  
16 patterns versus industry patterns?

17 MS. TABACCHI: Object to the  
18 form.

19 Asked and answered.

20 THE WITNESS: Yeah. Not that  
21 I'm aware of.

22 Q. (BY MR. INNES) And I'm asking  
23 that outside of IMS data. I'm just wondering  
24 if there's any data that was used to perform  
25 that analysis.

1 A. Not that I'm aware of.

2 Q. Why was it important to you  
3 that that analysis might be done?

4 MS. TABACCHI: Object to the  
5 form.

6 THE WITNESS: I thought it  
7 could be interesting.

8 Q. (BY MR. INNES) Interesting  
9 why?

10 A. To see what our dispensing  
11 looked like versus others in the industry.

12 Q. What do you think that might  
13 have told you?

14 MS. TABACCHI: Object to the  
15 form.

16 THE WITNESS: I don't know,  
17 because we weren't able to do the  
18 analysis.

19 Q. (BY MR. INNES) Was there --  
20 what was the reason why you thought you might  
21 want to see that relationship?

22 MS. TABACCHI: Object to the  
23 form. Asked and answered.

24 THE WITNESS: Yeah, I'm -- I  
25 think it's not unusual to want to

1 benchmark against others doing the  
2 same thing you do.

3 Q. (BY MR. INNES) Are we talking  
4 from a sales perspective?

5 MS. TABACCHI: Object to the  
6 form.

7 THE WITNESS: No. I don't even  
8 know that I have access to sales data.

9 Q. (BY MR. INNES) So you were  
10 interested in doing this comparison because  
11 you thought it would be interesting as it  
12 related to your SOM work?

13 A. Just generally related to our  
14 dispensing.

15 Q. What is your purview as it  
16 relates to dispensing?

17 MS. TABACCHI: Object to the  
18 form.

19 THE WITNESS: During what  
20 timeframe?

21 Q. (BY MR. INNES) Well, you're  
22 asking for this analysis in February 2015, so  
23 we can start there.

24 A. At the time I don't believe I  
25 was really involved in dispensing, but I did

1       want to transition the role to be more  
2       involved in some of the other aspects other  
3       than the order monitoring program or in  
4       addition to it.

5               Q.       So you didn't have any  
6       responsibilities related to dispensing at the  
7       time, but you thought it would be interesting  
8       to do the comparison; is that right?

9               A.       Yes.

10              Q.       How does dispensing relate to  
11       suspicious order monitoring?

12                      MS. TABACCHI: Object to the  
13       form.

14                      THE WITNESS: I'm not sure I  
15       understand the question.

16              Q.       (BY MR. INNES) How does  
17       dispensing relate to suspicious order  
18       monitoring?

19                      MS. TABACCHI: Object to the  
20       form.

21                      THE WITNESS: I mean, you order  
22       products that you dispense, so it  
23       would relate to your orders.

24              Q.       (BY MR. INNES) How does  
25       dispensing relate to distribution within the

1 suspicious order monitoring context?

2 MS. TABACCHI: Object to the  
3 form.

4 THE WITNESS: We distribute  
5 products that our pharmacies dispense.

6 Q. (BY MR. INNES) Are you  
7 familiar with the "know your customer  
8 requirements"?

9 A. Yes.

10 Q. And what's your understanding  
11 of the "know your customer requirements"?

12 MS. TABACCHI: Object to the  
13 form.

14 THE WITNESS: It's a  
15 distributor is expected to understand  
16 who their customer is and who they're  
17 distributing products to.

18 Q. (BY MR. INNES) And does  
19 Walmart seek to understand who their customer  
20 is and who they're distributing products to?

21 MS. TABACCHI: Object to the  
22 form.

23 THE WITNESS: Yes.

24 Q. (BY MR. INNES) And who is  
25 that?

1           A.       Our customer, our own  
2       pharmacies.

3           Q.       Does that put you in a unique  
4       position as it relates to the DEA?

5                   MS. TABACCHI: Object to the  
6       form.

7                   THE WITNESS: I believe that  
8       puts us in a different position than  
9       other distributors because we are  
10      distributing to our own customers.

11                  So -- to our own pharmacies.  
12      So we have easier access to know who  
13      our customers are.

14          Q.       (BY MR. INNES) How do you  
15      fulfill your obligation -- your "know your  
16      customer" obligation?

17                  MS. TABACCHI: Object to the  
18      form.

19                  THE WITNESS: As I mentioned,  
20      they're our own pharmacies, so we have  
21      access to who they are, what their  
22      policies and procedures are, what  
23      their dispensing data is.

24          Q.       (BY MR. INNES) And why you  
25      have access to who they are, what do you mean

1 by "who they are"?

2 A. Who our pharmacists are.

3 Q. The actual white-coat staff in  
4 the pharmacy?

5 A. Mm-hmm. (Witness nods.)

6 MR. INNES: Okay. We can break  
7 now.

8 THE WITNESS: Okay.

9 MS. TABACCHI: We're finished?

10 MR. INNES: We're finished. Do  
11 you want to get on camera?

12 MS. TABACCHI: No. I have no  
13 questions.

14 Thank you.

15 VIDEOGRAPHER: Are you going to  
16 read and sign or anything?

17 MS. TABACCHI: Yes. Yes.

18 Does anybody on the phone have  
19 questions?

20 VIDEOGRAPHER: We are going off  
21 the record at 4:54 p.m.

22 (Proceedings recessed at 4:54  
23 p.m.)

24 --o0o--

25

1  
2 CERTIFICATE  
3  
4

5 I HEREBY CERTIFY that the  
6 witness was duly sworn by me and that the  
7 deposition is a true record of the  
8 testimony given by the witness.

9 It was requested before  
10 completion of the deposition that the  
11 witness, MIRANDA JOHNSON, have the  
12 opportunity to read and sign the  
13 deposition transcript.

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Debra A. Dibble; RDR, CRR, CRC  
Certified Reporter  
Notary Public  
Dated: December 17, 2018

(The foregoing certification  
of this transcript does not apply to any  
reproduction of the same by any means,  
unless under the direct control and/or  
supervision of the certifying reporter.)



INSTRUCTIONS TO WITNESS

Please read your deposition over carefully and make any necessary corrections. You should state the reason in the appropriate space on the errata sheet for any corrections that are made.

After doing so, please sign the errata sheet and date it.

You are signing same subject to the changes you have noted on the errata sheet, which will be attached to your deposition.

It is imperative that you return the original errata sheet to the deposing attorney within thirty (30) days of receipt of the deposition transcript by you. If you fail to do so, the deposition transcript may be deemed to be accurate and may be used in court.

	ERRATA		
	Page	LINE	CHANGE
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1 ACKNOWLEDGMENT OF DEPONENT

2  
3  
4 I, MIRANDA JOHNSON, do hereby  
5 certify that I have read the foregoing pages  
6 and that the same is a correct transcription  
7 of the answers given by me to the questions  
8 therein propounded, except for the  
9 corrections or changes in form or substance,  
10 if any, noted in the attached  
11 Errata Sheet.  
12

13 \_\_\_\_\_  
14 MIRANDA JOHNSON

DATE

15 Subscribed and sworn to before me this  
16 \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

17 My commission expires: \_\_\_\_\_  
18  
19 \_\_\_\_\_

20 Notary Public  
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1	LAWYER'S NOTES		
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